

**Excerpted from ABA's Handbook on Questioning Children: A Linguistic Perspective, 3rd Ed.*
Using Narratives and Narrative Event Practices in Interviews with Children**

*Developed by Julie Kenniston, MSW, LSW
May 2013*

It is not a new phenomenon to use narrative-inviting questions in interviews with children. Research shows that children give more information and more accurate information when asked free recall questions. The focus has shifted from merely asking lots of narrative questions to planning for and using a narrative event practice. The National Institute for Child Health and Human Development (NICHD) interviewing protocol (Lamb, Hershkowitz, Orbach & Esplin, 2008) suggests adding a *narrative event practice* (training episodic memory) in the early stages of the interview on a neutral topic. (Lamb, La Rooy, Malloy, & Katz, 2011; Price, Roberts & Collins, 2012)

Most national child forensic interviewing models now incorporate this narrative practice early in the interview. This practice allows the child to explain what happened in a neutral event with little prompting and offers a baseline of the child's abilities. Here is a sample narrative event practice between an interviewer (I) and child (C).

I: Tell me all about your morning from the time you woke up until you left your house.

C: "My alarm went off but I rolled over. My mom yelled, 'get up now!' and I got up and went to the bathroom. Then I got dressed and ate breakfast. Got my stuff for school and left for the bus."

I: "I heard you say that you got dressed. Tell me all about getting dressed."

C: "I had to put on my school uniform. So I grabbed my shirt off the floor and put on my pants. They are the khaki ones. My blue ones were too dirty. I didn't have any socks so I went into my dad's drawer and took a pair of his. I put on my shoes by the front door."

I: "Tell me all about your shoes."

C: "We can wear any kind of shoes we want as long as they are black. I have black sneakers. That way I can run fast when we have recess. I leave them by the front door when I come in the house so that I don't get dirt on the floor. I think my mom is gonna have to buy me new ones because my feet are getting big."

I: "That helps me understand about your shoes and you getting dressed. You also told me that you ate breakfast. Tell me all about eating breakfast."

C: "My mom made toast. I came into the kitchen before my sister Katie and grabbed the toast out of the toaster and grabbed a plate and a knife and put peanut butter on my toast. I got orange juice out of the fridge and drank it from the bottle. Mom yelled at me. She hates when I do that."

This is an example of asking an event narrative question (the morning routine) with narrative follow-up questions. The interviewer is getting a great deal of information that puts the moment in context and gets details that were unsolicited. There are many details that can be corroborated. The child has learned how the interviewer wants information. Once a transition to the topic of concern is made, the interviewer can say, "Tell me all about X, just like you told me all about your morning."

Inviting narratives in this way early in the interview has many purposes:

- The interviewer engages the child.
- The interviewer shows that she is a listener and is paying attention.
- The interviewer gets a baseline of the child's ability and willingness to communicate.
- The interviewer explains and practices with the child the way that information will be shared.
- The interviewer shows interest and doesn't interrupt.
- The interviewer demonstrates that there will be follow-up questions even when the child provides a lot of information.
- The interviewer shows that the child is the expert on his own life details by allowing the child to tell what he knows in his own words.
- The interviewer demonstrates that the child can recollect and recall.
- The interviewer gets a sense of the child's perception of events and ability to observe.
- The interviewer receives data that is unsolicited (not suggested by the interviewer).
- The interviewer gets information that can be corroborated by the multidisciplinary team in investigative activities post interview.
- The interviewer can refer to this part of the interview later when the child is answering with fewer words ("Just like you told me about your morning, tell me all about what happened the night the police came to your house.").

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*For more information, see Walker, A.G. Inada, S.S. & Kenniston, J. (Eds). (2013). *Handbook on Questioning Children: A Linguistic Perspective*. (3rd Ed.). Washington, DC: American Bar Association.

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Excerpted from *ABA's Handbook on Questioning Children: A Linguistic Perspective, 3rd Ed.**
Interviewing People with Developmental Disabilities

*Developed by Julie Kenniston, MSW, LSW
May 2013*

A forensic interview is a conversation between two people where one person is seeking information to assist a team in making a decision about a report of maltreatment. We have addressed ways to minimize miscommunication with children and offered some suggestions to maximize their witness capacity, *see Appendix D*. Another group of people who require communicative sensitivity are those with a developmental disability.

People with developmental disabilities can be great witnesses. "Practitioners will need to tailor interviewing approach to the child's specific disability. Advance planning and efforts to meet the needs of each child will go a long way in making the interview comfortable for the child and productive for the case...Many simple steps can easily be incorporated into interviews that accommodate differences in how children with disabilities communicate." (Rainville, C. May 2012)

Preparing for the interview

Every child brings his own abilities into the interview. Interviewers should gather as much information as possible when preparing to make accommodations that maximize the child's ability to communicate and minimize the impact of the interview.

Minimizing impact involves assessing the child's safety. Children with developmental disabilities are highly vulnerable and dependent on caregivers just like their peers without developmental disabilities. Often children will deny or recant when they feel unsafe. Interviewers should be aware of this dynamic and discuss with child protective services the potential barriers to disclosure.

Multidisciplinary teams should make decisions after learning about the child's functioning, including things that enhance and hinder the child's ability to communicate. Choose a time that best suits the child. Create an interview space that respects the child's unique needs. This might include room arrangement, décor and lighting, seating, facilitated communication, interpreters, a support person, manipulatives or other accommodations. These interviews are not "one size fits all" and must be designed for each individual.

Remember that young children and those with developmental disabilities are literal and concrete. This means they are better at answering who, what, and where than they are at answering when, how many times, how long, and why.

Concrete vs. Abstract

Interviewers balance the art and science of interviewing while tending to the needs of the interviewee. The principles of language discussed in this book apply to people whose cognitive functioning is that of a young child.

Concrete people need concrete questions. The data necessary in an investigation (who, what, where, when, how and why) are a mixture of concrete and abstract terms. You can touch a *who* and interact with a *who* (like your Aunt Sally). You can see or hear or interact with a *what* (like a table or a baseball game). You can smell and experience a *where* (like a bedroom or a festival). These are concrete concepts. Young children and people with cognitive abilities equal to that of young children can provide

this information. Who, what and where are solid pieces of data and can be gathered.

Abstract terms are more difficult. You can't touch yesterday or August 8th (a *when* piece of data). Twenty minutes and 100 times are equally as elusive (*how long* and *how many times*). Giving the motivation of someone else is also complicated ("why did he come into your room?"). These are difficult concepts for concrete people but they are still crucial in investigations.

When

One way to maximize information from individuals with developmental disabilities is to focus on literal, concrete concepts. Who, what and where can give you when data. An individual who describes all the people present, what was happening at the time, and the place where abuse occurred might provide time markers for investigators to establish when the event happened.

"Mom and Dad went to see the Batman movie so my neighbor came over to play video games. We played Mario Kart in my basement on the new couch. He touched me. I didn't like it. I just wanted to play my game." The details provided allow the investigator to pinpoint when this event happened. The Batman movie can be corroborated by the parents as well as the timing of the purchase of Mario Kart and the couch.

If the parents were aware that the neighbor came over that night, this detail can also be corroborated and the investigator will have an "on or about date." If the interviewer had asked the developmentally disabled individual when this happened, he might have given a date or said something like "yesterday" (when the neighbor had no access to the child). This is often seen as inconsistency or lying; in reality it is the responsibility of the interviewer to ask questions in a developmentally sensitive way.

How

How questions require a different strategy. "How long" is a difficult question for high functioning adults, let alone children and those with developmental disabilities who have not mastered abstract concepts. "How many times" is quite important in child abuse and witnessing violence cases. It should be noted that chronic abuse is difficult to quantify.

Can you give the number of times you have ridden a bike? Most people cannot. For some children, abuse and violence is as frequent as you riding your bike. It would be impossible to give an accurate number. Interviewers should focus on individual episodes or events that the child can remember and narrate. Last time, time remembered most, first time, and different time are all possible events about which the interviewer can ask for who, what, and where information from the child.

Trying for narratives first, the interviewer can get the event in context ("Tell me everything that happened the last time your neighbor came over"). If needed, the interviewer can invite information in a more focused way about the people, place and what happened (before, during and after). Once one event is discussed, the interviewer can focus the child on another event and continue the process.

Minimizing Miscommunication

Interviewers can minimize miscommunication by focusing on the concrete questions that support the interviewee's cognitive ability. By asking lots of narrative questions around who was there ("Tell me all about the people"), the interviewer can get information that could possibly corroborate witness statements. This includes not only the people who witnessed the event but also people who know about the event.

Occasionally it helps to have the child focus first on where the event took place. This is concrete and provides context for the interviewer as the conversation progresses. In addition, the location is sometimes

easier to talk about and keeps the child engaged. What happened can be the most difficult part. Interviewers should be patient but still use narrative- inviting questions as much as possible. If needed (and the child is able) the interviewer can suggest the child write the answer if speaking is too difficult.

Art of Interviewing

The other important part of interviewing people with developmental disabilities is the art of engagement and building rapport. Interviewers set a tone that creates comfort and openness. Projecting unconditional warmth is a useful skill for the interviewer.

The witness is the expert and should be provided ample opportunity to talk about what she knows and the way she knows it. The interviewer should be prepared for self-soothing behaviors that might occur in the interview. Rocking, flapping or singing might happen mid-discussion. The interviewer should allow the interviewee time and restate questions once the interviewee is calmer. Patience and silence are necessary components in these interviews. In addition, interviewers should be genuine. Trying to trick the child or repeat questions to see if he will remain consistent can cause problems.

A Pleasing Nature

Because some people with developmental disabilities aim to please, interviewers should emphasize it is ok to correct the interviewer and that the interviewer does not know what happened because she wasn't there.

“Many [people with developmental disabilities] rely on caregivers whom they trust without question; are naive and socially insecure and will do anything to have a friend without understanding what they are doing; and are nonassertive by nature and unable to say no.”ⁱ ((Rainville, C. Dec. 2012)

Because these traits are common for this population, interviewers need to walk the line of empowering the child without being suggestive. Minimize suggestibility by using as many narrative prompts as possible (based on the child's ability). Closed-ended and forced choice (multiple choice) questions don't offer an opportunity for the interviewer to recognize miscommunication.

If the team determines that the child requires yes/no, closed-ended or multiple choice questions, it should be done thoughtfully. Questions that go in a direction other than the assumed direction can help show the child's commitment to telling what really happened.

For example, if the alleged abuse took place in the basement, the interviewer might pose the question in this way: “Did Terry touch you in the kitchen, the bedroom, or something else?” Be aware that if the child chooses one, it might be because the abuse happened both in the basement and in another room. Interviewers should consistently consider multiple hypotheses throughout the interview process and not make assumptions or hold a confirmation/disconfirmation bias.

These children might give the wrong response to a leading question to please the interviewer. .. Another reason a child gives a wrong answer is because the question is too difficult and the child doesn't understand it. Interviewers who ask narrative invites of children are less likely to fall into this concerning exchange.

Narrative Event Practice

Some children with developmental disabilities give basic information but no additional details. One way to assess a child's ability to narrate fully with details is by doing a narrative event practice in the early stage of the interview. This gives a baseline of the child's ability. If the child has difficulty describing a neutral event, this is a good indicator that it will be difficult to get lengthy narratives later in the

interview.

Interviewers will also get a sense of the child's ability to sequence events. If needed, interviewers can make accommodations that will help the child maximize information.

See also Rainville, C. (2012). Best Practices for Interviewing Children with Disabilities. *ABA Child Law Practice*, 31, 5 (May), 65, 70-72. Check www.americanbar.org/child for information about her upcoming book based on Rainville's article series in *ABA Child Law Practice*.

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Interviewing Children with Developmental Sensitivity

Julie Kenniston, MSW, LISW

julie.kenniston@gmail.com

Anne Graftam Walker, Ph.D.

Handbook on Questioning Children

A Linguistic
Perspective

3rd Edition



ABA Center on
Children and the Law

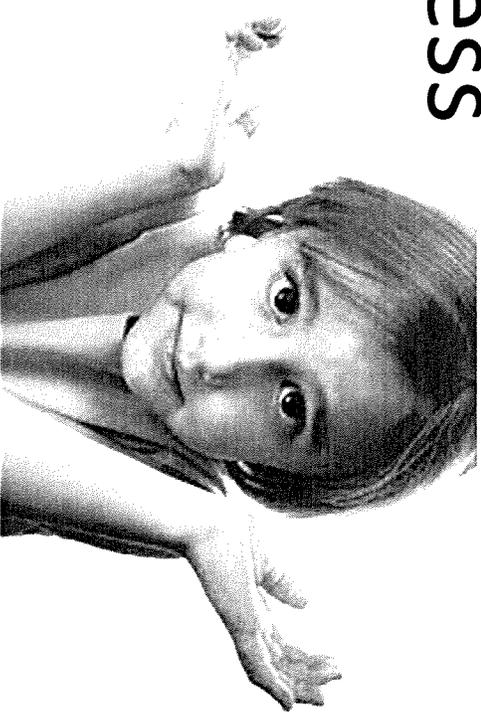
Focus for Today

- Interview instructions
- Truth/lie
- Competency
- Narrative event practice



Interview Instructions Cross Over

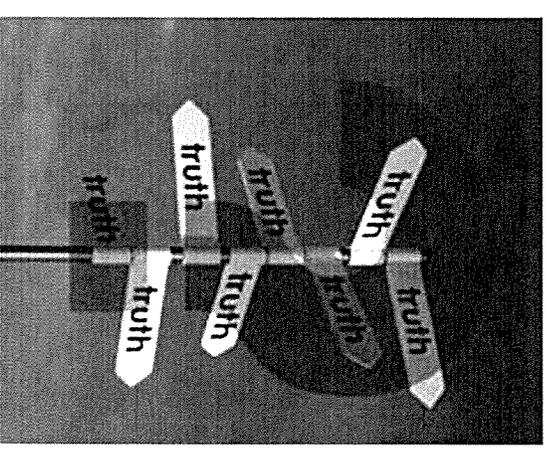
- Correct me
- Don't know/Don't guess
- Don't understand
- Truth/Lie Research



—Research: eliciting the promise has more impact than the old demonstrations of T/L

Competency

- Ability to recollect and recall
- Ability to perceive accurately
- Ability to differentiate truth from lies, to demonstrate this knowledge and know what will happen if a lie is told
- Ability to speak from personal knowledge of the facts



Narrative Event Practice (NEP)

- Demonstrates three of the elements of competency
- Undoes current communication culture
- Teaches children how to communicate
- Makes children the expert



How to do NEP

- Pick a neutral event
- Ask child to tell everything
- Don't interrupt, allow for pauses
- Follow-up with *narrative-inviting* Qs
- Focus on *actions*
- Listen to the child's ability to describe and give activities in logical sequence



What is the benefit of NEP?

From Handbook on Questioning Children

- The interviewer engages the child
- The interviewer shows that she is a listener and is paying attention
- The interviewer gets a baseline of the child's ability and willingness to communicate
- The interviewer explains and practices with the child the way that information will be shared
- The interviewer shows interest and doesn't interrupt

Benefits of NEP (cont.)

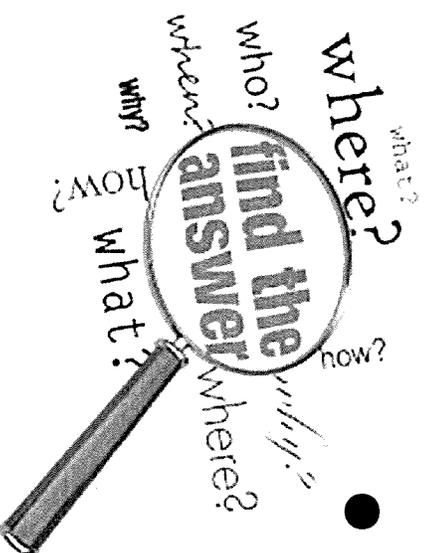
- The interviewer demonstrates that there will be follow-up questions even when the child provides a lot of information
- The interviewer shows that the child is the expert on his own life details by allowing the child to tell what he knows in his own words (personal knowledge of the facts)
- The interviewer demonstrates that the child can recollect and recall

Benefits of NEP (cont.)

- The interviewer gets a sense of the child's perception of events and ability to observe
- The interviewer receives data that is unsolicited (not suggested by the interviewer)
- The interviewer gets information that can be corroborated by the MDT in investigative activities post interview
- The interviewer can refer to NEP later in the interview when the child is answering in fewer words

Concrete vs Abstract

- Who
- When
- What
- How long
- Where
- How many
- Why



Talking With Kids

Getting to know you...

- ◆ What is the nicest thing that ever happened to you?
- ◆ What was the funniest thing you ever saw?
- ◆ What was the proudest moment in your life?
- ◆ What do you like best about yourself?
- ◆ What are three things you do well?
- ◆ What are three things you like best in a friend?
- ◆ What are three things you like least in others?
- ◆ What worries you the most?
- ◆ What was your worst disappointment?
- ◆ What are two things you would like to change in your life?
- ◆ What is the biggest decision you are facing right now?
- ◆ If you could make one rule for all the people in the world to follow, what would it be?
- ◆ If other people were going to describe you as an animal (or a color or an object, etc), what would they say you were most like?
- ◆ What do you like least about yourself?
- ◆ What is something about you that you wish were different?
- ◆ What have you always wanted to be able to do in your life?
- ◆ What are three things in your life you think you can't change?
- ◆ What are your favorite things to do?
- ◆ What do you do when you are all alone?
- ◆ What do you dream about?
- ◆ What songs do you know? How does it go?
- ◆ What games do you like to play? Who plays them with you? Who taught them to you?
- ◆ What do you think about just before you go to sleep at night?
- ◆ What do you dislike or hate to do?
- ◆ Do you know how to cook? What is your favorite thing to make?
- ◆ What is your favorite food? Restaurant?
- ◆ Do you like being indoors or outdoors best?
- ◆ Are you a morning person or a night person?
- ◆ If you could be any animal, what would you choose, why?
- ◆ How old do you think you will be when you die? How do you think that might happen?
- ◆ What is your favorite place to be?
- ◆ If someone was going to write a newspaper article about you, what would they say? What would you want them to make sure to leave out?
- ◆ Do you think you look different than other kids your age? If so, why?
- ◆ If you had three wishes what would they be? Which one would you want to come true first?
- ◆ Finish this sentence: If I really wanted to, I know I could...
- ◆ Suppose you were going to be stuck on a desert island and you could only take three people with you. Who would you choose? Why?
- ◆ If you were in charge of this country, what three laws would you create?
- ◆ What is your favorite movie? TV show? Cartoon? Music? Book?

- ◆ Describe your life in 10 years. In 5 years. In one year. In one month.
- ◆ If you could change places with anyone in the world for a day, who would you choose and why?

How do you feel...?

- ◆ What do you do when you are angry? Sad? Happy? Frustrated? Afraid? Etc.
- ◆ Tell me about a time you felt angry? Sad? Happy? Frustrated? Afraid? Etc.
- ◆ When you are feeling lonely, what is the one thing that helps you the most?
- ◆ Describe the feeling “sad” (or mad, happy, peaceful, etc.) for me; what color is it, what shape, what temperature, what texture, etc.?
- ◆ What scares you?
- ◆ Do you ever have nightmares? Tell me about it...
- ◆ What was your favorite dream? Why?
- ◆ When you think about your future, what are you most concerned about?
- ◆ What has your family taught you about feelings?
- ◆ What is the strongest feeling you have ever had? Tell me about when that happened.
- ◆ When you need to calm yourself down, how do you do it?
- ◆ Who can you trust to share your feelings with? How do they help you?
- ◆ When you upset, what helps you calm down?
- ◆ What kinds of things help you feel safe? Calm? In control?

Friends and School

- ◆ Do you have a best or favorite friend? Who?
- ◆ What is the best thing you guys do together?
- ◆ What is the best thing about your friends? What kinds of things do you do?
- ◆ If you won a trip to Disneyland and could take six kids with you, who would you take? Why?
- ◆ Who is the nicest kid in your school?
- ◆ Is there someone in your school everyone is afraid of?
- ◆ How do you feel about school?
- ◆ Who do you go to if you have problems in school?
- ◆ What is your favorite sport? Tell me about why you like it.
- ◆ What do you do after school?
- ◆ What kinds of groups are at your school?
- ◆ What kinds of things do they do there?
- ◆ What are kids like at your school?
- ◆ What kinds of things do you do at recess?
- ◆ Who did you eat lunch with today (or yesterday)? Is that what you usually do?
- ◆ If you could be principal for a day, what would you do?
- ◆ How many schools have you been to? Where do you currently go?
- ◆ What kind of homework do you get?
- ◆ Who can you go to for help with your homework?
- ◆ Do you know if all of your credits have transferred?
- ◆ When do you graduate?
- ◆ Do you have an IEP (individual education plan)?
- ◆ What do you want to do when you graduate? College? Vocation school? Job?

- ◆ What are you doing to achieve these future goals? For example, taking SATs, applying to colleges/vocational schools, internships, etc.

Family

- ◆ Tell me about who is in your family.
- ◆ Who do you live with?
- ◆ What relatives do you get to see?
- ◆ What do you like to do best with your father? Your mother? Your sister? Your brother?
- ◆ If you could change one thing about your dad (mom, brother, etc), what would it be?
- ◆ Tell me about a typical Saturday in your family?
- ◆ Tell me about dinnertime at your house?
- ◆ What time do you go to bed at night? Is that different on school nights and weekend ?
- ◆ How do you celebrate your birthday in your family?
- ◆ What is your favorite holiday? How does your family celebrate it?
- ◆ What does your family do for fun?
- ◆ What is one thing from your family that you want to make sure to do with your own family one day?
- ◆ What is one thing your parents do that you would never do when you are a parent?
- ◆ How would your family describe you?
- ◆ Tell me about your room? What color is it? Where do you sleep? What kind of stuff do you have in there?
- ◆ Tell me about your foster family?
- ◆ Have you lived with a foster family before? Tell me what that was like.

Health/Fitness

- ◆ When was the last time you saw a doctor?
- ◆ What is your doctor's name?
- ◆ Do you know your doctor's phone number or how to get in touch with him or her?
- ◆ When was the last time you saw a dentist?
- ◆ What is your dentist's name?
- ◆ Do you know your dentist's phone number or how to get in touch with him or her?
- ◆ Do you have any health issues?
- ◆ Do you understand what it is to have a health condition?
- ◆ Has someone explained your treatment to you?
- ◆ Has anyone helped you understand and take care of your health issues?
- ◆ Have you ever broken any bones? Which ones? How did that happen?
- ◆ Do you take any medicines? Is so, what kind? How do they help you?
- ◆ Do you have a boyfriend or girlfriend? **or** Do you have someone special in your life right now?
- ◆ Do you know you can get confidential services for your sexual health?*
- ◆ Has anyone told you where you can get any of these services if you want them?
- ◆ Have you taken a sex education class or talked to anyone about sex?
- ◆ Has anyone talked to you about safe sex practices?
- ◆ Do you have sex with anyone? If you do, what do you do to practice safe sex?
- ◆ Is there someone you can talk to about your health issues?
- ◆ What do you do to practice safe sex?
- ◆ What do you do for exercise?

- ◆ Do you play any sports?
- ◆ What do you wish you could play?

*These include pregnancy testing, STD diagnosis and treatment, contraception, options counseling, counseling about sexual identity and sexuality, emergency contraception, HIV testing and care, etc.

IMPORTANT PROGRESSIONS OF DEVELOPMENT ACROSS CHILDHOOD & ADOLESCENCE

INFANCY--TODDLER--PRESCHOOL--EARLY SCHOOL--SCHOOL AGE--PRETEEN--TEEN--YOUNG ADULT		
<p>Desires for control involve immediate wants and needs, likes and dislikes. Need limits and boundaries to define who they are in the world, depend on caregivers to use this type of control with them.</p>	<p>Sense of Control</p> 	<p>Desire to have control over most of their life. Come to terms with not having control over others or over authority figures, i.e. school officials, boss at work, legal system. Begin to understand limits to their control.</p>
<p>Begin as completely dependent on caregiver; begin to develop independence and autonomy through walking and talking. Want to do it for themselves but also want help on demand.</p>	<p>Increasing Independence and Autonomy</p> 	<p>Independence and autonomy involve being able to take care of oneself—financially, emotionally, etc. Want to make their own decisions; often believe they have to do it all by themselves. Want input but don't always want others to know they want the input.</p>
<p>Require caregiver to help them regulate their emotions and behaviors. Need help to sooth distress, follow rules, and control impulses.</p>	<p>Co-Regulation to Self-Regulation</p> 	<p>Develop ability to regulate their own emotions, impulses, and behaviors. May still need help from others, but can often ask for this help. Continues to be in the throes of development into adulthood.</p>
<p>Begin to develop sense of empathy and understanding of how others might feel.</p>	<p>Understanding of Others' Behaviors and Feelings</p> 	<p>Better able to “put themselves in the shoes of others”. Empathy should be operational and accessible. Can better understand chain of events leading to different life consequences.</p>
<p>Think in the here and now. Words mean exactly what they are defined to mean. Things are very black and white; either or. Developing ways to have different perspectives and meanings.</p>	<p>Concrete to Abstract Thought</p> 	<p>Able to understand the “bigger picture”. Can understand hidden meanings and agendas. Become more idealistic. Begin to understand their past histories and the actions of others from a more logical perspective.</p>
<p>Need to physically connect with caregiver in order to feel safe and develop a secure and healthy attachment. As development progresses, they can begin to “hold others in mind” rather than require physical presence.</p>	<p>Internalized Relationship Connections</p> 	<p>Should have developed ability to “hold others in mind”. This helps with conscience development, i.e. what would my parents say? Struggle for independence often creates conflicts with attachment relationships, but a secure attachment will continue to serve as a foundation for future relationships within and outside of family systems.</p>

Child Development

JoAnne Solchany PhD, ARNP
Seattle, Washington



Developmental Domains

- Psychological
- Affective
- Cognitive
- Behavioral
- Risks
- Court Connections

Infancy: Psychologically

- Totally dependant on a caregiver
 - A sense of trust and safety
 - Consistency and predictability
 - Basic needs met
 - Containment and regulation
- Should take others for granted
- Magic happens, sense of cause and effect in development
- All about “me”—good and bad

Infancy: Affective

- Begins with basic feelings of joy and distress
- Affective range increases over time
- By one year, can demonstrate happy, sad, angry, fear, excitement, etc.
- Extremes of feelings can be overwhelming
- Strong ability to “sense” feelings of others
- Any need for emotional connection should be met with appropriate support and comfort

Infancy: Emotional Mirroring

Clearly, the emotional state of others is of fundamental importance to the infant's emotional state.

Tronick, 1989, pg. 114.

Infancy: Cognitive

- Events that occur do not take on same meaning as they do for adults
- They do not understand “right” and “wrong”, things just are.
- If things occur in the context of a trusted relationship they can take on a different meaning
- Having a strong sense of support and familiarity helps mitigate impact of any trauma

Infancy: Physiological

- Major sense of control
- Biorhythms
 - Eating
 - Sleep
 - Elimination
 - Regulation

Impact of Trauma

- Derail development.
- Regression
- Interfere with regular routines and consistency
- Create interruptions in physiological stability, i.e. sleep, eating, elimination
- Emotional deregulation
- Increase in or new fears
- Separation anxiety

Long-term Trauma

- Separation from security
- Lack of a consistent primary caregiver can lead to an inability to develop trust with anyone
- Continued disruption of routines can create instability
- Exposure to extended conflict can be damaging to the core sense of self

Infancy: Court Connections

- Make the child “known” to the court—the child needs to become a person with a name
 - Presence at occasional court proceedings
 - Representative who “knows” the child fully and has spent enough time with the child to bring him/her to life for the court. This designee should be allowed to speak in the proceedings
 - Repeated visits over time help the people to remember the child is growing fast and changing rapidly
 - Pictures of child, updated with each court proceeding

Infancy: Court Connections

- Plan any appearances during low stress times
- Allow them access to someone they trust and feel comfortable with
- Choose quiet court times
- Use basic child's finger games as opportunities to engage when needed

Toddlerhood: Psychological

- Believe they are center of world
- Cause and effect in play but vacillates with magic
- Differentiating relationships
- Begin putting words with experiences
- Try to have control over separation and connection with others

Toddlerhood: Affective

- Grief responses can be intense and impact developmental progress
- Affective range should be expanding
- Expressed pride over accomplishments and abilities
- Still heavily depend on caregivers to help regulate themselves around emotion

Toddler: Cognitive

- Only a beginning capacity for right and wrong, limited to basic, concrete things, i.e. hot-no touch, no hit, no bite, hugs heal
- Tend to repeat things in an attempt to make sense of them, repetition helps to lay it down more firmly in the brain
- Rapid learning periods
- Mirror things they see, hear, and experience

Toddlerhood: Behavioral

- Tantrums
- Begin to find and play on loopholes
- Purposeful behavior begins to take shape
- Can be incredibly stoic
- Often like to “show off”
- Will act out and test limits; internal controls still under development

Toddlerhood: Risks

- Inconsistent or inadequate support from caregivers
- Easily stressed by repeated separations and disruption of routines
- Easily overwhelmed by emotional extremes, does not have intellectual capacity to “sort” them out
- Stress can also interfere with development of self reliance and sense of self

Toddlerhood: Court Connections

- Can meet judge and other personnel involved in the system.
- Can identify key people in their life, through in person contacts as well as pictures
- Have simple toys available—this allows for something to mutually focus on, helping child to regulate and feel more comfortable.
- Learn a typical child's game or song to provide a medium within which to engage
- Learn something about the child that they like and comment—this helps to connect

Preschool: Psychological

- Greater identity with same sex parent
- Increased abilities to self-regulate
- Play becomes more imaginative
- Balance between relationships and independence shifts off and on
- Like to keep control of environment through maintaining routines
- Developing social norms and “rules”

Preschool: Affective

- Lack intellectual capacity to decipher complex emotions, particularly when many people are involved
- Easily overwhelmed by intense emotion
- Rely on caregivers to help make sense of their feelings and those of others
- Begin to differentiate between feelings nuances
- Attempts at controlling and understanding feelings often come through play

Preschool: Cognitive

- Present focused
- Concrete thinking
- Understand simple concepts
- Can remember events and relate the narratives, but easily suggestible

Preschool: Behavioral

- Ask questions and make demands when feeling out of control
- Tantrum behavior continues
- May act out aggression on others—often with the person they trust the most to help them make sense of things
- Play and pretending become major ways of coping and understanding the world

Preschool: Risks

- Exposure to continued conflict and distress can interfere with developmental progress
- Often demonstrate a pseudo maturity in their attempts to seem independent but lack the underlying substance to adequately deal with situations
- Often feel “responsible” and want to make others feel better—an impossible and overwhelming task

Preschool: Court Connections

- Is developing an increasing ability to participate in court proceedings
 - Can tell the court personnel stories of good things they have done, as well as what scares them (should be done one on one with child accompanied by someone they see as trusted)
 - May be able to draw their thoughts, although not always decipherable without child interpreting for you.
- Is developing an increasing knowledge of what roles people & the court have
 - Has knowledge to begin to know role of a judge and others, have beginning understanding that there are authority figures that have roles in our lives.
 - If child goes into courtroom, allow exploration—checking things out, looking behind tables and benches, sit in chairs, etc.

Preschool: Court Connections

- Interacting with a preschooler
 - Give simple explanations, follow child's lead, answer in no more than 5 words per answer, give adequate time for processing and response.
 - Learn a preschool game or song, something that can be interacted with. An alternative is to engage child by “remembering” most of a song yourself, then asking child for help “remembering” the rest; this gives child a sense of control and knowledge—preschoolers like to feel smart and helpful
 - Learn about something the child has accomplished lately and comment, i.e. I heard you can write your name all by yourself

Early School Age: Psychological

- Still working on distinguishing reality and fantasy
- Begin to develop sexual identification
- Increasing ability to know people still exist even if they are not physically there
- Better ability to distinguish between feelings, thoughts, & actions
- Expanded attachments—to peers, siblings, teachers, others
- Better understanding of relationships between people and between concepts

Early School Age: Affective

- Expanding feelings range and abilities
- Distress often comes out as aggression
- Regression can occur when upset or worried
- Develop ability to close off some feelings to be able to deal with other feelings, i.e. seem to forget about anger at parent to have fun with a peer

Early School Age: Cognitive

- Can understand slightly more complex ideas
- Curious about why things happen, how they work
- Still suggestible but better at recalling
- Understand rules and social conformity better
- Increased influence/impact by media/pop culture

Early School Age: Behavioral

- Begin to demonstrate more “defensive” behaviors
- Distress of any kind is often acted out behaviorally, and often toward the person they trust the most
- School performance can be disrupted if their energies are demanded in other places in their lives
- Desire for control often means sneaky behaviors begin to show up

Early School Age: Risks

- Exposure to things or experiences they cannot understand or are unprepared for
- Emotionally or psychologically overwhelming them so they lose interest in friends, school, exploration, and developing new interests
- Acting out to try to control or get their way when they lack the words or ability to identify their feelings

Early School Age: Court Connections

- Prepare child by providing age appropriate description of the court process (i.e. coloring book with judge, lawyer, and all parties included; video with cartoon characters describing a day in court)
- May be in court for general issues and proceedings, however avoid any conflict, chaos, or hostility
- If child is asked to talk with any caregiver present, focus on what is their favorite thing they may have done with that person; find out ahead of time what child may have done and explore that topic, i.e. “I heard you and your dad played went to a baseball game last night...how was it?”
- Court appearances should be brief; no more than 10-15 minutes—be aware of antsy behavior such as squirming, shuffling, laying down, fussing, etc.—follow this child’s lead; you see these things it is time to go before child has to escalate to get your attention.

Early School Age: Court Connections

- Interacting with the early school age child
 - Encourage role playing, i.e. sit at tables, call court to order, etc. Imagination is very alive for this age.
 - Encourage questions, answer with basic answers, and then ask “do you have another question?”
 - Comment on how great the questions are, this encourages and it provides a sense of control and competence
 - Ask about school, friends, activities

School Age: Psychological

- Increased ability to plan before acting
- Increased levels of confidence
- Increased focus on development of self reliance
- Develops more select friendships and best friends
- Begins to take more responsibility for actions; may test own values or beliefs
- Self regulation continues to develop
- Desires a greater sense of control

School Age: Affective

- May self blame even if they can identify other explanations or acknowledgements
- Will often search for outside sources to meet affective needs
- Sense of competition often becomes greater
- As puberty nears, emotions can seem to become unstable and unpredictable

School Age: Cognitive

- Increased reasoning capacity
- Can consider competing ideas
- Well aware of social norms/expectations
- Strong sense of right and wrong
- Better at keeping thoughts to themselves or sharing with peers rather than adults

School Age: Behavioral

- Rebellious behaviors often begin to be expressed
- Often need physical releases—sports, activities
- Engaging in peer relationships takes on more significance
- May test limits and search for limits and containment
- May express stress through somatic complaints and regressive behavior

School Age: Risks

- Lack of support can lead to a decreased sense of mastery and self-reliance—critical in this period.
- Sensitive to criticism, often take things very personally
- Straddle both concrete and abstract thought, often struggle with their understanding of events and situations
- Risk of depression increases with loss of control over life events

School Age: Court Connections

- Should be very able to meet with judge or attorneys, may want support person of their choosing with them.
- Reassure child he/she is in no way responsible for any of the court proceedings or events.
- Participation in court proceedings should be encouraged, keep brief—no more than 30-60 minutes; focus on proceedings that do not include conflict, non-compliance issues, etc.
- Depending on individual circumstances the child may want to be involved in all proceedings. The child should be encouraged to articulate why they want to be there and how they feel they might contribute. This provides structure and forethought and will make the hearing more meaningful for the court and the child.

School Age: Court Connections

- Interacting with the school age child
 - Provide them with tasks such as making a list of what they want the judge to know, what their favorite things go do include, etc. –again provides control opportunity, lists can provide something tangible, and having a paper to share can decrease anxiety. Pictures of things can also be shared if writing skills are not well developed.
 - Allow the child to give the writings and/or pictures to the court; make sure they know their input was received and noted by the court
 - Reassure child he/she is in no way responsible for any of the court proceedings or events.
 - Ask about accomplishments, ideas about things, what happens in their school, etc.

Normal Sexual Development

- **Preschool**
 - Body curiosity, touching parents genital
 - Bathroom and toileting interest
- **Early school age**
 - Increase in modesty
 - Sexual talk or slang for shock value
 - Masturbation or peer explorations, playing doctor”
 - Questions about procreation
- **Later school age**
 - Increased interest and curiosity re sexuality
 - Masturbation
 - Beginning experimentation with peers
 - Interest /imitating popular culture /fashion which is quite sexualized

Pre-Adolescent: Psychological

- Pubertal changes become apparent and push relationships to the forefront
- Begin to acknowledge weaknesses or shortcomings of adults in their lives
- Begin to question authority
- Transition between childhood and adulthood
- Searching for a sense of independence and identity

Pre-Adolescent: Affective

- Emotions may fluctuate
- Prone to excessive guilt feelings when things do not go as expected
- Feelings of loyalty may impact rational thought
- Searching out their own morals and values
- Want to feel a sense of belonging and fitting in

Pre-Adolescent: Cognitive

- Better at abstract reasoning
- Want to know “why” and have reasons for things
- Often test out new ideas, patterns of interaction, or thoughts on others
- Better at hiding thoughts/emotions
- Loyalty to someone can win out over any other concern or demand

Pre-Adolescent: Behavioral

- Test limits by breaking rules
- May begin playing people against one another
- Rebellious behavior is easily fueled
- Try to exert control by making quick or rash decisions
- Mastery of tasks and abilities
- Act in ways that help them feel they *belong*

Pre-Adolescent: Risks

- Drug and alcohol use or abuse
- Sexual acting out
- Aggressive acting out
- Legal difficulties
- School truancy
- Depression
- Suicidal behavior
- May attempt to be perfect, overly compliant

Pre-Adolescent: Court Connections

- Should be able to meet and talk with judges/lawyers/others; a support person may still be requested
- Opinions should be encouraged, however limits may need to be set as arguments for the sake of arguing can be a highlight of this age group
- Provide an “escape” plan, if child gets upset is it okay for them to leave or ask to go to the bathroom, giving them escape plans and other coping mechanisms provides a sense of control
- Encourage them to participate in even the smallest way, again this increases a sense of control
- Share documents that are appropriate for child to read, this increases awareness and sense of control

Pre-Adolescent: Court Connections

- Interacting with the pre-adolescent
 - Provide child with a task, i.e. taking notes during proceedings they are present for, etc.—helps to focus attention and dissipate anxiety
 - May need clear limits on how to behave in a court room or during certain events
 - Ask about their peers, teachers, etc.

Adolescent: Psychological

- Rapid gains in self confidence
- Independent decision making
- Can deal with hypothetical problems
- Begin to see selves in roles of adults
- Can take ownership of decisions
- Less dependent on adult guidance

Adolescent: Affective

- Want to feel their contributions are important
- Increased feelings of belonging with peers
- Feel pride over accomplishments
- Often confused over where to place their loyalties

Adolescent: Cognitive

- Often think they know more than they do
- Don't believe "it will happen to them"
- More complex thinking
- More abstract thinking, but wide variations depending on lifetime experiences
- Can hold multiple competing ideas
- Understand right and wrong, but can rationalize things they don't want to accept

Adolescent: Behavioral

- Able to take on more responsibility
- Better abilities to do well in a work environment
- Desire to be different or at least differentiate themselves from others through their accomplishments and activities

Adolescent: Risks

- Fine line between compliance and independence
- Need to feel a sense of control, but often easily overwhelmed
- Need opportunities to be responsible but within their competency limits
- Pseudo-maturity can come into play
- Vulnerable to same issues as preadolescent

Adolescent: Court Connections

- Depending on individual circumstances the adolescent may want to be involved in all proceedings; however, the adolescent should be able to articulate why they want to be there and how they feel they might contribute—this provides some structure and forethought, hopefully avoiding the child who is wanting to “get back at” a parent
- Respect child’s feelings, even if they want to participate, the emotional intensity might become too much and they may opt out at the last minute; having thoughts and ideas written out may allow them to have that shared or read to the court even if they don’t want to be there—or they may want to be there but have someone else read their words
- Adolescents are often very peer oriented, it may be appropriate for a “best friend” to accompany them depending on the events taking place (or at least waiting in the hall)—sometimes having someone to “show” things to can help increase feelings of competency and control.

Adolescent: Court Connections

- Interacting with the adolescent
 - Autonomy is critical at this age, provide any opportunity to participate and share
 - Negotiation can be used fairly well with many adolescents—their ability to think about meeting someone halfway allows them a sense of control and a sense of accomplishment
 - As often as possible, child should be communicated with directly
 - Ask about their future plans, interests, etc.

Tips

- Avoid too much information
- Answer questions honestly but within developmentally appropriate limits
- Clarify court does not equal truth, someone can go free if not enough evidence
- May focus on need to testify/be a witness as it is duty as a citizen
- Do not promise feelings of recovery to come out of court participation

Contact Information

JoAnne Solchany PhD, ARNP, RN, BC

drjsolchany@gmail.com

206-679-4471



NATIONAL CRIME VICTIM LAW INSTITUTE

*Protecting, Enforcing, & Advancing
Victims' Rights*

310 SW 4th Ave., Suite 540, Portland, OR 97204



CHILD-VICTIMS:

Providing Effective Rights Enforcement Representation

What is a victims' rights attorney?



- “Child victims of crime are specially handicapped. First, the criminal justice system distrusts them, and puts special barriers in their path of prosecuting their claims to justice. Second, the criminal justice system seems indifferent to the legitimate special needs that arise from their participation.” *Final Report President's Task Force on Victims of Crime*, 51 (Dec. 1982).
- ABA Resolution on Child-Victims
<http://www.abanet.org/crimjust/policy/my09101d.pdf>

What does independent counsel achieve?



- Frees up the prosecutor to prosecute the case
- Provides child-victims with confidentiality and privilege and avoids potential *Brady* obligations
- Ensures that child-victims have an independent voice in the proceedings

Child-Victims' Attorneys Require Specialized Knowledge



Providing Effective Representation

MODEL RULE 1.1: Competence

- Victims' Rights is a specialized area of legal knowledge
- Specialized knowledge is required for representing child-victim clients



Special Lawyer Competencies for Working with Children

- The ABA recommends that lawyers working with children receive training specifically focused on child advocacy and representation of children
 - ✦ *Am. Bar Ass'n, Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases, 18-20 (1996)*

Dual Roles as a Lawyer for a Child-Victim:

Examples



- Victims' rights representation
- Protective orders
- Civil suits for damages
- Immigration proceedings
- Divorce/custody disputes
- Dependency proceedings
- Indian law implications
- Prosecution or juvenile proceedings relating to the child-victim's own acts

Bottom Line



- Child-victims face many challenges, requiring them to navigate a multitude of systems (legal and otherwise) and raising questions about how to best protect their rights and interests (legal and otherwise)
 - ✦ Victims' rights attorneys can help assert and seek enforcement of the child-victim's rights in the criminal and juvenile justice systems
 - ✦ When the victims' rights attorney cannot help, referrals and partnerships come into play

Ensuring the child-victim is an informed client: *Diminished Capacity*



Diminished Capacity

- Model Rule 1.14 – Client with Diminished Capacity
 - Maintain a normal attorney-client relationship as far as reasonably possible
 - Exception for seeking protective action to prevent substantial harm when a child-victim client cannot act in his or her own interest

Focus here is primarily on representing child-victims who are able to actively participate in some or all of their representation

ABA's Position

- “In all but the exceptional case, such as with a preverbal child, the child’s attorney will maintain this traditional relationship with the child client.”

**Am. Bar Ass’n, Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases, 2 (1996)*

MODEL RULE 1.4: Communication

Effectively Communicating with a Child-Victim Client



- Use the skills learned during this training:
 - Rapport development
 - Narrative practice
 - Instructions to improve communication
 - Open-ended questions
 - Developmentally appropriate language
 - “Tell me more about” questions
 - Wait-time
- Adequately convey the lawyer’s role and confidentiality obligations
- Verbal explanations alone may not be enough
- Accurately understand and express the child-victim’s position
- Be sure to thoroughly discuss potential consequences of decisions

Confidentiality and Parental Involvement



Model Rule 1.6: Confidentiality of Information

Lawyer *shall not* reveal information relating to representation unless:

- the child-victim client gives informed consent,
- disclosure is impliedly authorized in order to carry out the representation, or
- disclosure is otherwise permitted by the rules.

Parental Involvement: Proceed with Caution

- AZ Ethics Opinion 97-05 (1997)
- *State v. A.N.J.*
- *State v. Sucharew*
- *Kevlik v. Goldstein*

Lawyer *may* reveal information relating to representation:

- to prevent reasonably certain death or substantial bodily harm,
- to prevent the client from committing a crime or fraud in furtherance of which the client has used or is using the lawyer's services,
- to prevent, mitigate or rectify substantial injury resulting from the client's commission of a crime or fraud,
- to secure legal advice about the lawyer's compliance with the ethics rules,
- in a controversy between lawyer and client, or
- to comply with other law or a court order.

Misconduct: *Empowering the Child-Victim to Respond*



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

Model Rule 8.4

Entering a Case/Preserving Rights



You have been retained to enforce the rights of a child-victim with respect to a criminal prosecution...

Now what?

- Identify the stage of the prosecution/investigation
- Identify which victims' rights are implicated at this stage and future stages
- Identify which victims' rights were implicated by developments prior to your involvement in the case
- Which right(s) does the child-victim client wish to assert?
- Has a violation of those rights already occurred, or do you begin preparing for the future assertion of rights?

Child-Victims' Right to Privacy



Child-victims have a right to privacy

Where is it found?

- Federal Constitution
- Crime Victims' Rights Act, 18 U.S.C. § 3771 (CVRA)
- The Child Victims' and Child Witnesses' Rights Act, 18 U.S.C. § 3509
- State victims' rights statutes and constitutions
- Court practice/case law

Restrictions on a defendant's ability to associate directly with the child-victim and others



<u>Association with the Victim</u>	<u>Association with Others</u>
<i>State v. Garcia</i>	<i>People v. Wardlow</i>
<i>State v. Mitchell</i>	
Wash. Rev. Code § 13.40.215(5)	

Conditions prohibiting indirect contact with the child-victim



Contact through a third party

- *Arias v. State*

Contact using electronic means

- Facebook, telephone, texting, Internet, e-mail
 - *Commonwealth v. Myers*



Make restrictions explicit

Additional preventative measures may be appropriate

Restrictions relating to a defendant's custody or family court-related obligations



- Agreements to abide by family court orders or support obligations
 - ✦ *State v. Proctor*
 - ✦ *Commonwealth v. Silva*
- Agreements to undergo mental health counseling, participate in necessary treatment/ medication plans, or attend parenting classes or anger management classes

Maryland v. Craig



Leading Supreme Court case addressing alternative means of testifying for child-victims

- Child-victims testified in different room from defendant
- Testimony played in courtroom via one-way CCTV
- Defendant had contemporaneous communication with her defense attorney

Requirements Established in *Craig*

Trial court hears evidence:

- Is testimony by alternative means necessary to protect this child-victim from trauma?
- Is the child-victim traumatized by prospect of testifying in front of the defendant?
- Is the child-victim likely to suffer more than *de minimis* trauma if he or she has to testify in court in front of the defendant?

If alternative means are necessary to protect the child-victim, the court determines whether the means employed are sufficiently reliable:

- Under oath
- Contemporaneous cross-examination
- Fact-finder and defendant have the opportunity to observe the child-victim during testimony



What type of evidence is constitutionally required?



Evidence

- Must be particular to this child-victim
- Child-victim would be traumatized by the presence of the defendant
 - ✦ Fear of the defendant, or
 - ✦ Serious emotional distress, or
 - ✦ Inability to reasonably communicate, or
 - ✦ Inability to testify openly and accurately in defendant's presence
- Expert or non-expert testimony

Findings made on the record

Fear of the Defendant



Fear of the defendant is sufficient

- *United States v. Carrier*
- *Spigarolo v. Meachum*

Fear must be caused primarily by the defendant, not by the courtroom setting generally

- *United States v. Turning Bear*
- *United States v. Bordeaux*

Serious Emotional Distress



Serious emotional distress such that the child-victim cannot reasonably communicate is sufficient

✦ *Maryland v. Craig*



Countless emotions may also overwhelm a child-victim's ability to communicate, including:

fear

guilt

confusion

remorse

loyalty to family privacy

shame

Inability to Reasonably Communicate



Testimony that the child-victim would not be able to “reasonably communicate” may be sufficient



Inability to Testify Openly & Accurately



Inability to testify openly and accurately in defendant's presence may be sufficient

- *Lomholt v. Iowa*
- *United States v. Garcia*



Type of Evidence:

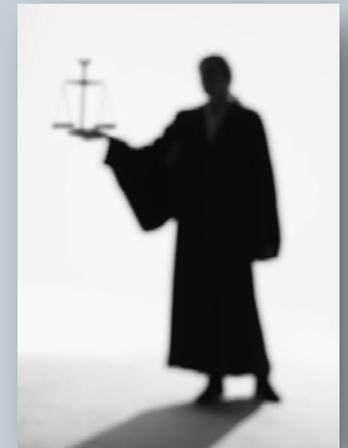
Expert or Non-Expert Testimony

Showing Trauma:

1. Experts, parents, caregivers, family members, child-victim's own testimony (outside defendant's presence)
2. Possibility of combining generalized testimony from a specialist in the field with testimony that is specific to the child-victim
3. Judge may base findings on personal observation of the child-victim

What is **not** constitutionally required by *Craig*?

- ❖ Expert testimony (some statutes require)
- ❖ Child-victim being forced to confront defendant to establish that it is a traumatizing experience



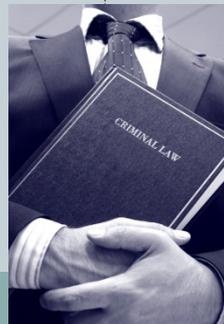
Craig Findings Necessary for Two-Way CCTV: *Circuit Split*

Second Circuit:

- Does not require *Craig* findings when a witness testifies using two-way CCTV
 - Face-to-face elements of confrontation are preserved using this method
 - ✦ *United States v. Gigante*

Eighth & Eleventh Circuits:

- Requires *Craig* findings even with two-way CCTV
 - Not constitutionally equivalent to face-to-face confrontation
 - ✦ *United States v. Yates*
 - ✦ *United States v. Bordeaux*



18 U.S.C. § 3509: Child-Victims' and Child-Witnesses' Rights Act

- Enacted the same year as *Craig* (after *Craig*)
- Codifies federal protections for child-victims and child-witnesses
- Allows for testimony by two-way CCTV or videotaped deposition (no one-way CCTV)

Notable differences from *Craig*

- Expert testimony may be required
- Does not specify that fear of testifying in open court must stem from the defendant
- Videotaped testimony permits presence of defendant unless additional showing is made

Timing



Pretrial	Mid-Trial
Ideal - ensures that the child-victim does not suffer any more trauma than is necessary	Remedial
	No motion made pretrial (or pretrial motion denied) and child-victim develops difficulty upon taking the stand or while testifying

Pretrial *Craig* Hearings & Confrontation Concerns



May a child-victim testify about his/her fear of the defendant in a pretrial *Craig* hearing held without the defendant present?

Yes

This is the very situation these statutes seek to prevent!

Confrontation clause rights do not apply to pretrial hearings:

- *Kentucky v. Stincer*
- *Pennsylvania v. Ritchie*
- *Peterson v. California*

Three Steps to Preparing a Child-Victim for Testimony



- Get the child-victim familiar with the setting
- Teach the child-victim about how the court process works
- Prepare for the testimony itself



The Setting



- If possible, take the child-victim to visit the courtroom or place where the alternative means of testifying will occur and introduce him or her to the judge, bailiff, clerk, court reporter, security officers, etc.
- Orient the child-victim to the players and explain the layout of courtroom, including any video or audio recording technology

The Process



The child-victim will:

- Be called to the stand
- Be sworn in
- Be questioned by prosecutor (or you, depending on the proceeding)
- Be questioned by defense counsel or the defendant
- Be told to step down by judge



Preparation for Testimony



- Take the child-victim through the general areas likely to be covered by questioning and explain what it means to “object”
 - ✦ Competency Hearings
 - ✦ *Craig* Hearings
 - ✦ Trial Testimony
- Explain who the defense attorney and prosecutor are and what their jobs are
- Discuss who the child-victim would prefer to have present in the room while they testify and who they would prefer to be absent during testimony
- Practice asking and answering sample questions
- Be prepared for after-effects

What is the Right to be Heard at Sentencing?



- Written or oral information about the impact of the crime on the child-victim and/or the child-victim's family
 - Potentially includes sentencing recommendations
 - Consider filing a separate sentencing memorandum

Written vs. Oral Impact Statements



Written Impact Statement

- A written description of the physical, psychological, emotional, and financial harm caused by crime to child-victim and/or the child-victim's family
- May be given directly to the court, or provided to the individual drafting the presentence report

Oral Impact Statement

- Given in person, in court
- If the child-victim gives the statement, it should be in his/her own words
- Request any necessary accommodations

Impact Statements Made on Behalf of a Child-Victim



Giving an impact statement on behalf of a child-victim can often prove difficult for adults

- Focus primarily on the harm to the child-victim and not the representative's own pain and suffering
- Keep in mind that venting, while cathartic, can be unpersuasive to the audience
- Highlight bad facts and aggravating circumstances

Defendant's Right to Challenge and/or Cross-Examine



- Several states permit defendants to challenge/rebut statements of fact contained in a victim impact statement by offering testimony/evidence
- Defendants may be permitted to engage in cross-examination relating to statements of fact contained in a victim impact statement
- Most defense attorneys refrain from any challenge

Focusing the statement on the impact of the crime on the child-victim's life can help avoid the vast majority of these challenges

Julie Kenniston, MSW, LISW

Experience

The Center for Family Solutions

Volunteer Executive Director, August 2010 to present

Interim Executive Director, February 2009 to August 2010

Offering support and intervention services, prevention, wellness and training in the areas of sex abuse, family and peer violence. Conducting forensic interviews and assessments. Facilitating Darkness to Light Stewards of Children child sexual abuse prevention program.

Butler County Children Services

Director of Training and Education, January 2007 to present

Training and Education Coordinator, July 2005 to January 2007

Implementing new employee orientation, training and mentoring staff and supervisors. Conducting domestic violence assessments and investigative interviews. Managing Speakers Bureau. Representing agency on Butler County Safety Committee, Cross Systems Training Committee and the Butler County Domestic Violence Coordinating Council.

Take Root

Advisory Board Member, September 2012 to present

Clinical Director, September 2011 to September 2012

Interim Clinical Director, April 2011 to September 2011

Peer Support Facilitator, October 2010 to April 2011

Volunteer clinical support positions for an organization established by adults who were abducted as children. Assisted in both face-to-face and online support.

Independent Contractor/Trainer/Consultant

August 1997 to present

Presenting and consulting nationally and internationally on interviewing children and adolescents in child abuse, exploitation, and witnessing violence cases; interdisciplinary teamwork and peer review; sexual abuse, internet crimes cases and domestic violence issues; safety and family assessment, case management and planning. Conducting forensic interviews and assessments. Developing and implementing curricula. Case consulting and expert witness testimony.

The Childhood Trust

September 1997 to June 2013

Coordinated and implemented the Forensic Training Institute. Trainer for Forensic Interviewer Training. Consulted on forensic evaluations and conducted interviews. Coordinated peer review group.

Hamilton County Department of Human Services

Sexual Abuse Investigator, February 1992 to August 1997

Conducted over 3,000 forensic interviews of alleged child victims of sexual abuse and completed family risk assessments. Testified in court. Trained prosecutors and victim witness advocates on interviewing and sexual abuse issues. Trained new workers, foster and adoptive parents, HeadStart teachers, and other community members on child abuse issues. Participated in the PCSAO Standards for Effective

Practice Project.

United Methodist Children's Home
Coordinator and Group Leader Trainee, February 1991 to February 1992
Utilized Positive Peer Culture and Therapeutic Crisis Intervention techniques.

University of Dayton
Admission Counselor, July 1990 to December 1990
Coordinated presentations and conducted interviews.

Publications and Curricula

Co-authored "Sexual Abuse: Issues Related to Interviewing" with Michelle Ditton, RN, SANE-A, SANE-P. Chadwick's Child Maltreatment: Sexual Abuse and Psychological Maltreatment. Volume 2 of 3, Fourth Edition. Editors David L. Chadwick, MD, Randell Alexander, MD, PhD, FAAP, Angelo P. Giardino, MD, PhD, MPH, FAAP, Debra Esernio-Jenssen, MD, FAAP, & Jonathan D. Thackeray, MD, FAAP, 2014.

Co-edited APSAC Advisor "Special Issue on Forensic Interviewing" Volume 25, Number 4, with Viola Vaughan-Eden, PhD, MJ, LCSW, and Patricia Toth, JD, 2013.

Authored "Forensic Interviews in Abduction Cases." Missing and Exploited Children's Program Newsletter, Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, United States Department of Justice, June 2013

Co-authored Handbook on Questioning Children: A Linguistic Perspective, 3rd edition with Anne Graffam Walker, PhD, and co-edited with Sally Small Inada, MA, published by American Bar Association, 2013.

Consultant/Pilot Trainer for Curriculum Manual Eight Step Sex Trafficking and Exploitation Protocol: A Training Program for Conducting Forensic Interviews of Minor Victims of Commercial Sexual Exploitation, National Center for Missing and Exploited Children in collaboration with the United States Department of Justice, 2013.

Contributed to "The Crime of Family Abduction: A Child's and Parent's Perspective." Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, United States Department of Justice publication, May 2010.

Authored Interviewing Children in Child Abuse Investigations online curriculum for Fox Valley Technical College National Criminal Justice Training Center, 2009, updated 2013.

Co-authored "Obtaining Information from Children in the Justice System" with Erna Olafson, PhD, PsyD, for the Juvenile and Family Court Journal, Vol. 54, No. 4, Fall 2008.

Contributed to "You're not Alone: The Journey from Abduction to Empowerment." Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs,

United States Department of Justice publication, May 2008.

Contributed to "What About Me? Coping with the Abduction of a Brother or Sister." Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, United States Department of Justice publication, May 2007.

Authored Interviewing Children and Adolescents in Child Abuse Cases curriculum for Fox Valley Technical College National Criminal Justice Training Center, 2004, updated 2009 and 2013.

Co-authored "The Child Forensic Interview Training Institute of the Childhood Trust, Cincinnati Children's Hospital" with Erna Olafson, PhD, PsyD, APSAC Advisor, Vol. 16, No. 1, Winter 2004.

Co-authored Forensic Interview Training Manual for the State of Illinois and the Ohio Network of Children's Advocacy Centers' Beyond the Silence with Erna Olafson, PhD, PsyD.

Co-authored Developing Skills in Interviewing Techniques with Young Children curriculum with Cynthia King, MSSA, LISW, and Sally Fitch, MSW, LSW.

Contributed to the Institute for Human Services' Building Skills in Family Risk Assessment, Overview of Child Sexual Abuse, Investigative Interviewing in Child Sexual Abuse Cases and OCWTP CORE curricula rewrite for 2004.

Licensure and Professional Associations

Licensed Independent Social Worker, State of Ohio Counselor, Social Worker, Marriage and Family Therapist Board, November 2013 to present

Member, National Association of Social Workers, July 2012 to present

Advisory Board Member, Institute on Violence, Abuse & Trauma training program "Abused Kids with Disabilities: A National Training and Support Program," March 2010 to August 2011

Advisory Board Member. National Children's Advocacy Center (NCAC) National Training Advisory Board, March 2010 to September 2011

Faculty Member, National District Attorneys Association, September 2009 to present

Board Member, American Professional Society on the Abuse of Children (APSAC), January 2009 to present (2 terms); Co-chairperson, APSAC Forensic Interviewer Certification Task Force, January 2009 to present; Executive Committee Member at Large, January 2011 to June 2012

Committee Member, Butler County Domestic Violence Coordinating Council, August 2006 to present

Faculty Member, Finding Words/Child First Ohio, July 2005 to present

Faculty Member and Consultant, Hidden Voices Discovered Words Forensic Interviewing, Kentucky, January 2005 to November 2006

Board Member, Ohio APSAC Chapter, January 2004 to December 2010

Trainer, Consultant and Author, Ohio Network of Children's Advocacy Centers, January 2004 to present

Trainer and Consultant, Office of Juvenile Justice and Delinquency Prevention, May 2003 to present

Member, APSAC Think Tank on Videotaped Interviews of Children, January 2003

Faculty Member, Indiana Finding Words, June 2002 to February 2006

Member, Ohio Governor's Task Force on the Investigation and Prosecution of Child Abuse Cases, November 2000 to 2003

Facilitator and Trainer, Forensic Interviewer Training, American Professional Society on the Abuse of Children, 1998 to present

Trainer, Ohio Child Welfare Training Program, May 1997 to July 2005

Certified Special Instructor, Ohio Peace Officer Training Academy, Presenter for the Ohio Child Abuse and Exploitation Investigative Techniques program (OJJDP and OCWTP), November 1996

President Cincinnati Chapter, University of Dayton Alumni Association, 1995 to 1999

Member, Public Children's Services Agency of Ohio Standards for Effective Practice Committee, 1995

Licensed Social Worker, State of Ohio Counselor, Social Worker, Marriage and Family Therapist Board, May 1993 to present

Member, American Professional Society on the Abuse of Children, March 1993 to present

Education and Awards

University of Dayton
B.S. in Premed, Psychology Minor, 1990
Graduated with Honors

University of Cincinnati
MSW, June 2010

Ohio Child Welfare Training Program
Exceptional Service Award, 2001

Connections: A Safe Place
Be the Scream Advocacy Award, 2011

University of Cincinnati
Recent Alumnae Achievement Award, 2012

JoAnne E. Solchany, PhD, ARNP
20006 Cedar Valley Road
Suite 101
Lynnwood, WA 98036
(206) 679-4471
drisolchanv@gmail.com

LICENSES & CERTIFICATION

Registered Nurse, State of Washington
Advanced Registered Nurse Practitioner, Infant/Child/Adolescent Psychiatric w/ Prescriptive Authority, State of Washington
DEA, Prescription Authorization
Clinical Specialist, Child and Adolescent Psychiatric and Mental Health Nursing, Board Certified
Infant Mental Health Specialist

EDUCATION

PhD, Nursing, University of Washington, Seattle, 2000
MSN, Nursing, University of California, San Francisco, 1991
BSN, Nursing, University of Alaska, Anchorage, Anchorage, AK 1989
BA, Psychology, Western Washington University, Bellingham, WA 1981
Associate of Arts & Sciences, Everett Community College, Everett, WA 1979

PROFESSIONAL EXPERIENCE

Infant, Child, Adolescent & Adult Psychotherapist and Psychiatric Nurse Practitioner, Private Practice, Seattle, WA (95-present)

Private practice and consultation with infants, children, adolescents and adults. Providing mental health consultation and training to several groups in the mental health, legal, and child development areas, nationally and internationally. Provide psychiatric evaluations of adults, adolescents, children and infants for DSHS (have completed over 100 psychiatric and/or psychiatric/parenting evaluations), Snohomish and Skagit County School Districts, Parent Defense Organizations, and private persons. Provide expert witness testimony for state and private cases. Provide therapy and/or medication management for adults and children. Provide research support.

Affiliate Assistant Professor, Family & Child Nursing, School of Nursing, University of Washington, Seattle, WA (11/07-present)

Clinical Supervisor, School of Nursing, University of Washington, Seattle, WA (95-present)

Assistant Professor, College of Nursing, Seattle University, Seattle, WA (9/07 – 8/09)
Assistant Professor, Family & Child Nursing, School of Nursing, University of Washington, Seattle, WA (2001-11/07)
Principal Research Scientist, NCAST, School of Nursing, University of Washington, Seattle, WA (00-01)
Auxiliary Faculty, Family and Child Nursing, School of Nursing, University of Washington, Seattle, WA (00-01)
Research Assistant, School of Nursing, University of Washington, Seattle, WA (95-2000)
Infant, Child, Adolescent and Adult Psychotherapist-Advanced Nurse Practitioner, Private Practice, Anchorage, AK (92-95)
Psychiatric/Mental Health Advanced Nurse Practitioner, University of Alaska, Anchorage, (94-95)
Adjunct Faculty, Clinical Instructor, University of Alaska, Anchorage, Anchorage, Alaska (94-95)
Clinical Supervisor, University of Alaska, Anchorage, Anchorage, Alaska (94-95)
Psychiatric Nurse Practitioner /Senior Clinician, Aleutians East Borough Health Department, Sand Point, Alaska (91-92)
Student Intern/ R.N., Children and Adolescent Sexual Resource Center (CASARC), San Francisco, CA (9/90-6/91)
R.N., McAuley Neuropsychiatric Institute, St. Mary's Hospital and Medical Center, San Francisco (90-91)
R.N., Psychiatric Emergency Team (PET) Charter North Hospital, Anchorage, AK (89 -90)
Assistant Program Director, Children's Psychiatric Unit, Charter North Hospital, Anchorage, AK (87-89)
Team Leader, Adolescent Unit Charter North Hospital, Anchorage, AK (86 –87)
Mental Health Worker, Adolescent Unit Charter North Hospital, Anchorage, AK (85 –86)

CONSULTATION & CONTRACTS

Infant, Child & Adolescent Psychiatric, Parent-Child Relationship, & Mental Health Consultant to:

Zero to Three/Early Head Start National Office, Washington, DC

Center for Families, Shoreline, WA
Navos Community Mental Health, Seattle, WA
Florida State University
Nurse Family Partnership, Local WA state and National
American Bar Association, Center for Children and Justice, Washington DC
Olympia Law Group, Seattle, WA
Tacoma Public Defender's Office, Tacoma, WA
Idaho State Maternal-Child Program, Boise, ID
Neighborhood House Early Head Start, Seattle, WA
Early Childhood Academy, Kent, WA
Children's Home Society, Kent & Auburn, WA
Eastside Healthy Start, Redmond, WA
Catholic Community Services, Bellingham, WA

Adoption Consultant

WACAP, Seattle, WA
American's Adopting Orphans, Seattle, WA
Families with Children from China, Seattle, WA

Contracts

DCFS/DSHS, State of Washington, ARNP—Psychiatric Evaluations (adult and child), Parenting Evaluations, Infant Mental Health Evaluations and Treatment
Northwest Educational Service District 189
Center for Families, Shoreline, WA
Florida State University
Center for Children, Youth & Justice
New York Justice Center, NY, NY—providing judicial trainings on child development and related issues, consultation on development of court related bench book and websites
Navos Community Mental Health Infant Mental Health Program, West Seattle, WA—Providing reflective supervision to therapists and case consultation/training
American Bar Association, Center for Children—Trainer, Infants & Children in the Court
Navos Community Mental Health—Consultant and Clinical Supervisor, Infant Mental Health Program

PUBLICATIONS

Books

Solchany, J. (2014) *Promoting Maternal Mental Health During Pregnancy: Theory & Assessment, Volume I, Second Edition*, Seattle: NCAST Publications, University of Washington.

Solchany, J. (2014) *Promoting Maternal Mental Health During Pregnancy: Intervention, Volume II, Second Edition*, Seattle: NCAST Publications, University of Washington.

Solchany, J. (2011) *Practice and Policy Brief: Psychotropic Medications and Foster Children*. American Bar Association.

Solchany, J. (2001) *Promoting Maternal Mental Health During Pregnancy: Theory, Assessment, & Intervention*, Seattle: NCAST Publications, University of Washington.

Articles, Book Chapters, and Other Media

¹Peer Reviewed ²Data Based

¹Solchany, JE (2009), The Big Questions: Answering children's questions on adoption, feature article, *Adoptive Families*

²Solchany, J. & Pilnik, L. (2008), Healthy attachment for very young children in foster care. *Child Law Practice*, 27(6).

²Solchany, J. (2007), Consequences of divorce in infancy. Three case studies of growth faltering. *Zero to Three Journal*, 34-41.

²Solchany, J. & Barnard, K. (2006) *Can I trust you?* Translated into Japanese for the Infant Mental Health Journal of

Japan, Tokyo, Japan

¹Solchany, JE (2005), Making sense of adoption for the preschooler

²Solchany, J. & Barnard, K. (2005) *Can I trust you? Infant Mental Health*. Chapter 8 in J. Lombardi and M. Bogle (Eds.) *Beacon of Hope*, Washington D.C.: Zero to Three Publications.

¹Solchany, JE (2005), Making sense of adoption for the preschooler, *Adoptive Families*

¹Solchany, JE (2005), Did I come from your tummy? Understanding child-parent relationships, *Adoptive Families*

¹Solchany, JE (2005), Oh, brother! Bringing home baby, impact on siblings, *Adoptive Families*

¹Hill, S. & Solchany, JE (2005) Mental health assessments for infants and toddlers, *Family Law Review*, Fall.

¹Solchany, JE (submitted for review, 2004) Internationally adopted children and their mothers: The role of fantasy.

Journal of Reproductive and Infant Psychology.

¹Solchany, JE (in press, 2004) When Internal Working Models Fail: The Work of Mothers Embracing Adoption, *Infants & Young Children*

¹Solchany, JE, Mennet, L., Wiggins, N., & Barnard, K. (submitted for review, 2004) On my mind. *Infant Mental Health Journal*

¹Brown, MA & Solchany, JE (2004) Two overlooked mood disorders in women: Subsyndromal and Prenatal Depression, *Nursing Clinics of North America*, 39(1), 83-96.

²Solchany, J. (2004,) Preschool Play, *Adoptive Families*

²Solchany, J. (2004) Talking to your preschooler about adoption, *Adoptive Families*, April, 2004.

²Solchany, J. (2004) The Only Child, *Adoptive Families*, January, 2004.

¹Solchany, J. (2003) Issues of mental health in pregnancy. *International Childbirth Education Association Journal*.

²Solchany, J., Sligar, K., & Barnard, K. E. (2002) *Promoting maternal role attainment and attachment during pregnancy: The parent-child communication coaching program*. Chapter 4 in Infant and Toddler Mental Health. Models of Clinical Intervention with Infants and Their Families, Jesus Martin Maldonado Duran, M.D., Editor, Washington, D.C.: American Psychiatric Press.

Solchany, J. (2002, July/August) Parenting the child who waited. *Adoptive Families Magazine*, 55-56.

Solchany, J. (2002, May/June) Giving your child a vocabulary of feelings, Ages 3-5, *Adoptive Families Magazine*, 49.

Solchany, J. (2002) Regression in Children 6-8, *Adoptive Families Magazine*.

Solchany, J. (2001) Saying No to the 3-5 Year Old, *Adoptive Families Magazine*.

Solchany, J. (2001) 13 Plus: The Struggle for Independence, *Adoptive Families Magazine*.

Solchany, J. (January, 2002) Parenting the Child Traumatized within the Primary Caregiving Relationships, *Bulletin of Zero to Three: National Center for Infants, Toddlers, and Families*, Washington, D.C.: Zero to Three.

Solchany, J. (2001) 12 Points of Parenting the Adopted Child, Pamphlet, available from author.

²Solchany, J. & Barnard, K. (2001) Is Mom's mind on her baby? *Infant Mental Health in Early Head Start. Zero to Three*, *Bulletin of Zero to Three: National Center for Infants, Toddlers, and Families*, 22(1), Washington, D.C.: Zero to Three.

Barnard, K. & Solchany, J. (2001) Mothering. Chapter 1 in M. Bornstein's (Ed) *Handbook of Parenting*. Mahwah, New Jersey: Lawrence Erlbaum and Associates.

Solchany, J. (2001) *12 Points of Parenting the Young Adopted Child*, FCC Adoption Bulletin, June.

²Solchany, J. (2000) *Attachment based parenting for the adopted child. Our Silk Road*, 6(2).

Solchany, J. (2000) Video: *Attachment based parenting for the adopted child*. Produced by Americans Adopting Orphans, Seattle, WA.

²Solchany, J. (2000) *The Nature of Mothers Developing Relationships with their Adopted Chinese Daughters*. Doctoral Dissertations, University of Washington.

¹Solchany, J. (1998) *Anticipating the Adopted Child: Women's pre-adoptive experiences becoming mothers to adopted children. Canadian Journal of Nursing Research*, 30(3), 123-129.

²Spieker, S., Solchany, J., McKenna, M., DeKlyen, M., & Barnard, K. (1999) *The story of mothers who are difficult to engage in prevention programs*. Chapter 6 in J. Osofsky and H.E. Fitzgerald's WAIMH Handbook of Infant Mental Health, Vol. 3.

FELLOWSHIPS AND AWARDS

- Community Award for Supporting Early Connections, 2012
- Early Head Start Community Partner Award, 2006
- Finalist for the Harris Publishing Award, 2004.
- Nominated for 2003 International Award for Nursing Excellence, Sigma Theta Tau International, April/03
- Recipient of the Region I Nursing Media Print Award for *Promoting Maternal Mental Health During Pregnancy*, presented by Sigma Theta Tau International, Honor Society of Nursing, Pinnacle Awards
- Community Partner Award from Families with Children from China, November, 2001
- Solnit Fellow, Zero to Three National Center for Clinical Infant Studies, Washington, DC (2/2001-02)
- Dissertation Scholarship Award 1999, Pediatric Nursing Journal

RESEARCH

- Co-Primary Investigator, Supporting Early Connections, (2007-2011)—This project provided in home therapy services to children under 2 and their families who are referred to dependency court. Project was a collaboration between King County Dependency Court, DSHS, and Navos Community Mental Health. It was facilitated by CCYJ.
- Primary Investigator, Pregnancy, Adolescence, and Dental Health, (2005-2007), funded by Center for Rural Health Care Disparities
- Co-Primary Investigator, Homeless Families Project (2005-2009), funded by Gates Foundation, \$150,000.
- Primary Investigator, *International Adoption Project* (2002-2005). Study funded by the Van Hooser Award, \$10,000.
- Co-primary Investigator with Kathryn Barnard, *On My Mind Project*, University of Washington, School of Nursing (2002-3) Two year study funded by the Center for Mind, Brain, & Learning, \$158,000.
- Co-primary Investigator with Susan Speiker, *Clinical Case Studies of Attachment in Children 0-3*, University of Washington, School of Nursing (in progress).
- Primary Investigator, *The Nature of Mothers Developing Relationships with their Adopted Chinese Daughters*, doctoral dissertation. University of Washington, School of Nursing (1998-2000; partially funded by Hester McLaws Foundation and Journal of Pediatric Nursing).
- Co-Primary Investigator with Kathryn Barnard, RN, PHD, *Parent Protective Factors, Low Risk Population*, pilot study, University of Washington, Seattle, WA, School of Nursing (1997-1999, funded by a grant by the University of Washington, School of Nursing).
- Primary Investigator, *Maternal Bonding in an Adoptive Context*, Pilot Study, University of Washington, Seattle, WA, School of Education (1997).
- Research Assistant, *Early Head Start National and Local Research*, with Dr. Kathryn Barnard and Dr. Susan Speiker, University of Washington, School of Nursing, Seattle, WA (11/96-present).
- Research Assistant, *Single Mother's Breast Cancer Study*, with Dr. Fran Lewis, University of Washington, School of Nursing, Seattle, WA (9/95-1/98).
- Principle Researcher, *Social and Sexual Behaviors of Children Who Molest Other Children*, Research Project Proposal, University of California, San Francisco, School of Nursing (1991).
- Rater for inter-rater reliability check on newly developed projective test, PAIR: Pictures of Adult Infant Relationship Test, developed by Peggy Wilson, UCSF Doctoral Program, (1/91-6/91).

PROFESSIONAL & ACADEMIC MEMBERSHIPS

- International Honor Society of Nursing, Theta Omicron Chapter, College of Nursing, University of Alaska, Anchorage
- Child and Adolescent Psychiatric Nursing Association
- Zero to Three National Center for Clinical Infant Programs

SELECTED PRESENTATIONS

¹Peer reviewed ²Invited

- ²Pregnancy & Mental Health, Early Head Start, Portland State University 7.13
- ²Psychotropic Medications and Foster Children, Judicial Training, Colorado State, 7.13
- ²Parental Mental Illness and Parenting, Little Red Schoolhouse/Child Thrive, Snohomish County 4.13
- ²Pregnancy & Mental Health, Nurse Family Partnership, Snohomish County 5.13
- ²Parental Mental Illness and Parenting, Child Mental Health Conference, Orlando 9.12
- ²Psychotropic Medications and Foster Children, Judicial Conference, Virginia Beach 8.12
- ²Psychotropic Medications and Foster Children, CASA Conference, Washington DC 6.12
- ²Psychotropic Medications and Foster Children, Judicial Training, Washington DC 5.12
- ²Psychotropic Medications and Foster Children, Judicial Conference, Vermont 6.12
- ²Psychotropic Medications and Foster Children, Judicial Conference, Keystone, CO 5.12
- ²Early Childhood Mental Health Conference: Working with Mentally Ill Parents, Anchorage, AK, 4.12
- ²Early Childhood Mental Health Conference, Anchorage, AK, 5.10

- ²Maternal Mental Health in Pregnancy, Minnesota, 6.10
- ²Reasonable Efforts Symposium, Seattle, WA, 4.10
- ¹King County Court Project, Zero to Three National Training Institute, Dallas, TX, 12.09
- ¹Healthy attachment in foster care, Colorado Summit on Child Abuse and neglect, 6.09
- ¹Impact of the Court on Baby Brain Development, Colorado Summit on Child Abuse and neglect, 6.09
- ²Child Development and Foster Care, ABA Law Conference, May, 09
- ²Brain Development, Infancy through Adolescence, ABA Law Conference, May, 09
- ²Child Development and Foster Care, National CASA Conference, April, 09
- ²Child Development and Foster Care, Idaho State Bar Association, April, 09
- ²Child Development and Foster Care, Series of Judicial Trainings, State of New York, June, July & August, 2008
- ²Pregnancy and Mental Health, Head Start, Minnesota, October 2008
- ²Infant Brain Development, American Bar Association Training, Bethesda, MD, October, 2008
- ²Infant Mental Health, American Bar Association Training for Arkansas CASAs, Little Rock, October, 2008
- ²Child Development and Foster Care, Princeton University Woodrow Wilson School of Policy, New Jersey Public Defenders, October, 2008
- ¹Healthy attachment in foster care, Children's Law Conference, Savannah, Georgia, August, 2008
- ²AWHONN Canadian National Conference, Halifax, Nova Scotia, Canada, Opening Keynote on Pregnancy and Mental Health; Internal working models in parents; Bonding and Attaching in Adoption (televised), October, 2007
- ²Florida State University, Tallahassee, FL, Perinatal Mental Health, June, 2007
- ²Mental Health Association, Findlay, Ohio, Perinatal Mental Health & Infant Mental Health, May, 2007
- ²American Bar Association, Harrisburg, PA, Children and the Courts, May, 2007
- ²King Country Court, Seattle, WA, Reasonable Efforts Symposium on Child Neglect, May, 2007
- ²Prenatal & Perinatal Association, Watertown, NY, Perinatal Mental Health, April, 2007
- ²Harvard Law School and American Bar Association, Children & the Courts, Boston, April, 2007
- ²Iowa State Foster Care Program, Attachment and Young Children, Statewide Training, March, 2006
- ²King County CASA Training, Child Development and Needs of Young Children, Seattle, February, 2006
- ²Domestic Violence Conference, Therapeutic Interventions with Young Children, Seattle, November, 2005
- ¹⁻²NCAS Institute: Infant Mental Health, Three Case Studies: Divorce Trauma on the Growth and Development of Three Young Infants, Bellevue, WA, August, 2005
- ²Domestic Violence Symposium, Impact of DV on Pregnancy and Infancy, Kent, WA, May, 2005
- ²Sigma Theta Tau Induction Ceremony: *Research with Young Children*, Seattle, WA, May, 2004
- ²Idaho Children's Trust Conference: *Mental Health in Pregnancy*, Boise, ID, April 2004
- ²AWHONN, *Mental Health in Pregnancy*, Cheyenne, Wyoming, April, 2004
- ²Family Nurse Partnership, Keynote: *Mental Health in Pregnancy & Promoting Maternal Mental Health During Pregnancy*, Hershey, PA, April, 2004
- ²Public Health Nurses, *Mental Health in Pregnancy*, Longview, WA March, 2004
- ²Parents as Teachers, *Mental health in Pregnancy*, Coeur de Lane; Boise; Pocatello, ID, September, 2003
- ²Ruralcap, *Mental Health in Pregnancy & Working with Difficult Families*, Anchorage, AK, August, 2003
- ²Public Health Conference, Mental health in pregnancy, Wyoming, August, 2003
- ²Mental Health in Pregnancy, Infant Mental Health Conference, San Juan College, Farmington, New Mexico, 2003
- ²A Client Centered Approach: Mental Health, Substance Abuse, MCH, and Primary Care—Integration Summit, Region II (New York, New Jersey, Virgin Islands, & Puerto Rico), *Stress, Pregnancy, and Mental Health*, Brooklyn, NY, March, 2003
- ²Family Nurse Partnership, David Old's Program, *Working with Difficult to Engage Families*, Kansas City, Missouri, 4.03
- Zero to Three NTI, *12 Points of Parenting the Young Adopted Child*, Washington, DC, December, 2002
- ¹International Adoption Conference, *Attachment Focused Parenting*, Toronto, Canada, November, 2002
- ²State of Colorado, Public Health, Old's Program, *Stress and Pregnancy & Working with Difficult to Engage Families*, November, 2002.
- ²Early Head Start, New York University, *Stress and Pregnancy*, October, 2002
- ²NCAS Institute, *Promoting Maternal Mental Health During Pregnancy*, Bellevue, WA, August 2002.
- ¹AWHONN, *Promoting Maternal Mental Health During Pregnancy*, Boston, June, 2002
- ²New Jersey Perinatal Cooperative, *The Impact of Stress During Pregnancy*, Cherry Hill, New Jersey, May, 2002.
- ²Child Therapy Association & U.W. School of Nursing, Trauma and Attachment, April 2002.
- ²Seattle & King County Public Health, *Mental Health in Pregnancy*, Seattle, WA, March, 2002.
- ²Regions 9 & 10 Early Head Start Conference, *Maternal Mental Health During Pregnancy*, Seattle, WA, August, 2002.
- ¹*Internal Working Models of Adoptive Mothers*, American Academy of Pediatrics Annual Meeting, San Francisco, CA
- ²*Adoption/Foster Care/Kinship Placement*, University of Washington, Psychiatric Resident Program, March 2001.
- ²*How Adoptive Mothers Develop Relationships with their Children*, Attachment Conference, Attachment Center NW, Shoreline, WA, March, 2001
- ²*Relationship Enhancement Parenting: Attachment Based Parenting in Adoptive Families*, WACAP/Americans Adopting Orphans, Seattle, WA, March/June/September, 2001/ March/June, 2002
- *Working with Difficult Families*, Early Head Start/Zero to Three, invited speaker, Washington, DC, January 2001.

- ^{1,2}*The Impact of Maternal Childhood Trauma and Loss on Parenting*, invited speaker, Zero to Three, National Center for Infant Studies 15th annual National Training Institute, Washington D.C., December, 2000.
- ¹*Program Engagement, Adult Attachment Status, and the Parent-Child Relationship*, International Society for Infant Studies, Brighton, England, July, 2000
- ¹Infant Observation of a Chinese Adopted Baby, Zero to Three, December 1999, Anaheim, CA.
- ¹Difficult and Easy to Engage Families, presented at Society for Research in Child Development, April 15, 1999, Albuquerque, New Mexico
- Play, Aggression, Sexuality & Emotion, Ages and Stages for 0-5, Head Start Training, Neighborhood House, Seattle 3.99
- Infant Observation with a Baby Adopted from China: A case presentation, Center for Object Relations, Seattle, WA. 2/5/99
- DC: 0-3: Assessment and Diagnostics of Children 0-3, San Mateo County, CA, co-taught with Jean Thomas, MD. Jan99.
- Diagnostic Mental Health and Developmental Disorder Classification for 03, University of Washington School of Social Work Continuing Education Program and School of Nursing, October and November, 1998
- ¹Head Start Research Conference, two Poster Presentations: Working With Difficult to Engage Mothers and Improving Parent-Child Interaction Through an Early Reading Program, 7/98
- Adult Attachment & Difficult to Engage Mothers, Zero to Three Board of Directors, April, 1998

PROFESSIONAL COMMUNITY ACTIVITIES

Expert Panel on Mental Health & Pregnancy, Member, Early Head Start & Zero to Three, Washington DC, 4.09-present
Snohomish County Nurse Family Partnership Program, Advisory Board, Everett, WA, 2007-present
American Bar Association Center on Children and the Law, Advisory Board, Washington, DC, 2006-present
Bright Futures, Federal Task Force on Pregnancy and Post-partum, Washington, DC, 2005-present.
March of Dimes, Prematurity Task Force & Steering Committee, Seattle, Jan. 2003-2006
Reviewer, Brooke's Publishing Co., Baltimore, Maryland, Oct., 2002
Infant Mental Health Task Force, Washington, D.C, Zero to Three (1999-2006)
DC: 0-3 Training Task Force, Washington, D.C, Zero to Three (1999-2004)
Expert Consultant, Civitas, Chicago, Contributed to Prenatal, Adoption, and Grandparenting Sections of 0-3 Project, (2001-2002)
Guest Editor, Journal of Transcultural Nursing, (11/00-12/00)
Member, Mental Health Training Task Force, Kent Regional Justice Center, Family Court, (4/99-4/00)
National Certification Exam Item Writer for Child & Adolescent Psychiatric & Mental Health Clinical Nurse Specialist Exam, American Nurses Credentialing Center, Washington D.C. (3/99-3/01)
Member, Infant Mental Health Eastside Group, Redmond, WA (1/99-2004)
Member, Ad Hoc Committee, Outcome Evaluation, Children's Home Society, Seattle, WA (2/99-12/99)
Member, Infant Mental Health Task Force, Seattle WA (11/97-04)
Consultant, KTTY Anchorage Channel 4 Project on Self-Esteem, (3/95-7/95).
Consultant, Friends of Children, Task force for Services for Sexually Abused Children, (3/93-12/94).
Board Member, Board of Directors, Abused Women's Aid in Crisis, "AWAIC" Anchorage, AK (6/88-7/89)

TEACHING

Masters Committees:

Boriana Bortchev, Chair, *Siblings in the Birthing Room*, 2007
Wendi Fairweather, Chair, *Breastfeeding Patterns*, 2006
Yuqing Guo, *Emotional Regulation*, 2004
Sarah Evans, Chair, *Colposcopy Procedure Preparation*, 2004
Ricardo Rodriguez, Member, *Pregnancy and Mental Health*, 2004
Quen Zorrah, Member, *Reflective Function* 2003
Anne Wheatly, Member, *Stress & Pregnancy* 2003
Tammy Baker, Chair, *Parent Alienation Syndrome* 2003
Mihkaila Warren, Chair, *When a Parent Dies: Books for Kids and Adults Who Love Them, A Resource Manual for Healthcare Providers*, May 2002
Elan, *Natural Fertility*, 2008
Julia Shellhorn, *Adolescent Primary Care*, 2008
Johann Gurnell, *A Concept Analysis in Hoarding*, 2009
Jen Pinnow, *Preventing Teen Suicide in Hispanic Adolescents: A Video*, 2009

PhD Committees:

Thongsouy Sitanon, Member, *Parents' Understanding of the NICU in Thailand*, 2009
Yuqing Guo, Member, *Early Head Start*

Chia-Ling Wu, Member, *Prematurity*, 2009
Sheri Conner, Member, *Attachment & Genetics, defending* 2009
Edward Ramos, GSR, *Genetics*, 2006
Lana Conrad, Member, *Mothers & Babies*, 2008
Cecilia Roscigno, Member, *Traumatic Brain Injury*, 2008
Britta Saltonstall, Member, *Developmental Disabilities & Puberty*, 2009
Danuta Wojnar, Advisor & Member, *Social & Biological Lesbian Mothers & Miscarriage*, 2005
Julie Ann Jacob, GSR, *Education*, 2005

Courses Taught:

- o NURS 337 Spring 2008; Winter, 2009, Spring 2009
- o NURS 521 Foundations of Psychosocial Nursing, Winter, 2008; winter 2009
- o NURS 418 Vulnerable Populations, Winter & Spring, 2008
- o NURS 510 Ethics & Health Policy, Fall, 2007; Fall 2008
- o NURS 415 Family-Child Nursing, Winter, 2006 (Including a week intensive for a student group in Costa Rica), 2007
- o NURS 544 Psychosocial Issues in Childbearing, Fall, 2005, 2006
- o NURS 201 Human Development, Spring, 2004; Summer 2004, Summer 2005
- o NURS 415 Family Nursing, Winter, 2004, Fall, 2005
- o NURS 531 Theories of Infant Mental Health, Fall, 2003
- o NURS 548 Seminar in Infant Mental Health, Spring, 2003
- o NURS 408/451 Nursing Care with Families in the Community, Spring, 2003
- o NURS 529A Childhood Common Developmental and Behavioral Issues, winter, 2003
- o NURS 548 Seminar in Infant Mental Health, Winter, 2003
- o NURS 548 Seminar in Infant Mental Health, Fall, 2002
- o NURS 529A Childhood Common Developmental and Behavioral Issues, Winter, 2002
- o SOCW 442A Infant Mental Health, Winter, 2002
- o NURS 451B Connecting to Families in Transition, Fall, 2001
- o NURS 529A Childhood Common Developmental and Behavioral Issues, Winter, 2001
- o NURS 599 Independent Readings: Winter, 2002, Spring, 2002, Fall, 2002, Winter & Spring, 2003

STEVEN J. KELLY, ESQUIRE

201 N. Charles Street, Suite 2600
Baltimore, Maryland 21201
skelly@mdattorney.com 410.385.2225

EDUCATION

J.D., Georgetown University Law Center, 2003
Cum Laude, Journal of Law and Public Policy

B.A., American University, 1997
Magna Cum Laude and with University Honors

PROFESSIONAL HISTORY

SILVERMAN, THOMPSON, SLUTKIN & WHITE, LLC 2013-Present
Chair, Crime Victim Litigation Practice Group.

Lead cutting-edge team defending crime victims' rights in criminal and civil proceedings. The practice group ensures that crime victims and their families are afforded all their basic rights in the criminal proceeding including: the right to be notified of, present and heard at all appropriate criminal proceedings; the right to compensation and restitution; the right to privacy; and the right to protection from the offender. The group has achieved significant verdicts and settlements on behalf of crime victims in civil suits against criminal offenders and third parties. The group has represented victims in a wide array of cases including: homicide, child sexual abuse, sexual assault, child exploitation (child pornography), drunk and impaired driving, illegal videotaping, identity theft, criminal fraud, stalking, elder abuse, home invasion and various types of criminal assault.

MILES & STOCKBRIDGE, P.C. 2005-2013
Associate, Commercial Litigation Practice Group.

Defended manufacturers in fire injury and subrogation product liability, medical malpractice defense with concentration on catastrophic injury cases, represent large corporations in anti-trust disputes, defend retailers in tort actions in Maryland state and federal courts.

Representative matters: *Collins v. Pittway Corporation* (Maryland Court of Appeals 2008) (helped obtain *Certiorari* on behalf of manufacturer in product liability action based on doctrine of superseding cause); *Babb v. University of Maryland Medical Systems*, (Baltimore City Circuit Ct. 2007) (obtained favorable settlement on behalf of hospital and physicians in medical malpractice action involving catastrophic injury); *Raysawn Jones v. University of Maryland Medical System* (Baltimore City Cir. Ct. 2007) (obtained favorable settlement on behalf of hospital and physicians in medical malpractice action involving brain damaged baby).

HONORABLE RICHARD D. BENNETT, U.S. DISTRICT COURT 2004-2005
FOR THE DISTRICT OF MARYLAND
Law Clerk.

DLA PIPER U.S. 2003-2004
Associate.

Represented major international insurer against bad faith denial action in arbitration, represented Fortune 50 telecommunications company in breach of contract action in arbitration, drafted summary judgment motions in state court cases on behalf of a national developer, and represented auto and equipment manufacturers in product liability actions in state and federal courts.

UNIVERSITY OF MARYLAND 2001-2003
Adjunct Professor of Criminology.

STEPHANIE ROPER FOUNDATION, INC.

1998-2003

Program Director.

Administered program providing low-income crime victims with legal services related to enforcement of rights in the criminal justice process, government compensation, restitution, protection and other legal issues. Trained prosecutors and law enforcement on victims' rights laws and victim sensitivity; conducted victim sensitivity training for offenders in Maryland prison; lobbied the Maryland legislature and U.S. Congress on legislation advancing victims' rights.

HONORS, AWARDS AND APPOINTMENTS

Board of Governors, Federal Bar Association Maryland Chapter (2013-present)
Roper Victim Assistance Academy Award for Outstanding Contribution to Victim Services (2013)
Permanent Member, Judicial Conference of the United States Court of Appeals for the Fourth Circuit (2009-present)
Commissioner, Maryland Criminal Injuries Compensation Board (2009-present)
Law Clerk, Honorable Richard D. Bennett (2004-2005)
Maryland Super Lawyers® - Selected for inclusion in the area of General Litigation, Civil Rights/First Amendment (2010-2013)
National Crime Victim Law Institute's Legal Advocacy Award (2012)
MADD Maryland Operations Council (2012-present)
Miles & Stockbridge Pro Bono Award (2009)
Champion for Crime Victims Award presented by Maryland Crime Victims' Resource Center (2008)
Maryland Governor's Award for Service to Crime Victims (2000)
The Maryland Crime Victims' Resource Center: Board of Directors (2000-present)
American University's Award for Service to the University Community (1997)

PROFESSIONAL AFFILIATIONS

National Alliance of Crime Victim Rights Attorneys
National Crime Victim Bar Association
American Bar Association Victim Committee
Federal Bar Association



**NEVER WHISPER JUSTICE;
DEMAND VICTIMS' RIGHTS**

13th ANNUAL CRIME VICTIM LAW CONFERENCE

JUNE 20-21, 2014 | LEWIS & CLARK LAW SCHOOL | PORTLAND, OREGON

13TH ANNUAL CRIME VICTIM LAW CONFERENCE DIRECTORY
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WELCOME!

Welcome to NCVLI's 13th Annual Crime Victim Law Conference!

Enforcement of victims' rights is a critical piece of victims' ability to become survivors. Key among these rights are the rights to be notified, present, and heard, and to privacy, protection, confer with the prosecution, and full and timely restitution. Too often, however, victims of crime are treated merely as a piece of evidence in a case and their rights are not enforced. Working alone, none of us can change this. This is why NCVLI committed this year to creating a national community of 10,000 Rising for Victims' Rights. This Conference is a key piece of the effort.

This year's Conference, themed *Never Whisper Justice; Demand Victims' Rights*, urges us to develop, implement, and share concrete tools that can help achieve justice for victims. The Conference will feature 6 plenary sessions and 23 breakout sessions taught by leading experts from across the country addressing a wide range of victims' rights topics. With sessions addressing topics ranging from representing child-victims in civil and criminal cases, to representing sexual assault victims in the military, to understanding the neurobiology of trauma, to explaining seemingly counterintuitive victim behaviors, the Conference is designed to confront topics critical to enhancing practice and creating a space for a multi-disciplinary dialogue on how to better achieve justice and protect victims' rights.

The first Crime Victim Law Conference was held in 2002. That year, 52 people registered for the conference, most who knew each other and were already involved in the victims' rights enforcement movement. Over the years, the Conference has grown substantially and continues to be the only national conference focused on victims' rights. This year, more than 200 participants are in attendance from across the United States and around the world, most are present in-person and some are "present" via Livestreaming of the Conference on the Internet. Participants are attorneys, advocates, law students, survivors, psychologists, law enforcement personnel, and others committed to improving the justice system for survivors. The network of individuals dedicated to victims' rights continues to expand, and we encourage you to take the opportunity to connect with new and existing colleagues as we continue to increase and enhance this important community.

We look forward to engaging in conversation with you over the next two days!

GENERAL CONFERENCE INFORMATION

Transportation and Parking

The Conference will be held at Lewis & Clark Law School, located in Portland, Oregon. Transportation to and from Lewis & Clark Law School is available each day via shuttle from the Marriott Downtown Waterfront Hotel (shuttle schedule is available at the Registration and Information Tables). In addition, you may reach Lewis & Clark Law School via Trimet bus (visit www.trimet.org and navigate to the Trip Planner for directions) or by car. If you are driving your own private vehicle, there are a limited number of parking spots available at the law school campus with no parking fee (follow the signs). You may also call a taxi: Radio Cab 503-227-1212, Portland Taxi 503-256-5400, or Broadway Cab 503-227-1234. The Law School's address is: 10015 SW Terwilliger Blvd., Portland, OR 97219.

Wireless Internet

Please visit the Information Table for the password; it will also be written on the white boards in breakout sessions.

Speaker Materials

Educational materials for the Crime Victim Law Conference sessions will be available online shortly after the Conference. Following the Conference, NCVLI will email attendees a link to allow access.

Continuing Legal Education for Attorneys

The 2014 Crime Victim Law Conference has been submitted to the Oregon State Bar for 11.25 credits. Oregon Bar members should confirm or provide their Oregon Bar number at the registration desk. Attorneys from states other than Oregon are encouraged to submit a request to their state bar associations. Special CLE credits were applied for regarding the sessions below; a sign-in sheet will be available in these sessions.

- **Audism & Deaf Community Cultural Wealth** .75 Access to Justice
- **Access to Justice for Victims Who are Visually Impaired** 1.25 Access to Justice
- **The Unique Hurdles of LGBT Crime Victims & Their Families** 1.25 Access to Justice
- **Fundamentals of Victims' Rights for Attorneys** .25 Ethics
- **A High Wire Act: Advocating for Victims While Avoiding Unlawful Practice of Law** 1.25 Ethics

Certificates of Completion

To be green, we did not print certificates of completion for this event, as most attendees do not require them. If you need one, please contact ncvliconference@lclark.edu following the event, and we will email one to you.

Evaluations

Session evaluations will be distributed during each breakout session. Overall Conference evaluations will be available at the plenary sessions and at the Information and Registration Tables throughout the Conference. Please take a moment to fill out evaluations for every session you attend. Your feedback is critical to our ongoing development of the Conference.

Recordings of Conference Sessions

Most breakout sessions will be recorded and available to attendees online following the event. A link to the recordings with directions on how to access them will be emailed to attendees. Recordings will remain available for attendees throughout the summer. Please do not share the link with others, as it is intended for attendees only.

SHUTTLE SCHEDULE

Shuttles are for conference attendees only and run between the Marriott Downtown Waterfront Hotel (1401 SW Naito) and Lewis & Clark Law School (10015 SW Terwilliger Blvd)

FRIDAY A.M.

Pick Up Location	Drop Off Location	Staging/Early Board Time	Departure Time
Marriott Hotel	Lewis & Clark Law School	7:00am	7:15am
Marriott Hotel	Lewis & Clark Law School	7:05am	7:20am
Marriott Hotel	Lewis & Clark Law School	7:30am	7:45am
Marriott Hotel	Lewis & Clark Law School	7:50am	8:05am

FRIDAY P.M.

Pick Up Location	Drop Off Location	Staging/Early Board Time	Departure Time
Lewis & Clark Law School	Marriott Hotel	5:30pm	5:45pm
Lewis & Clark Law School	Marriott Hotel	6:15pm	6:35pm
Lewis & Clark Law School	Marriott Hotel	6:45pm	7:00pm

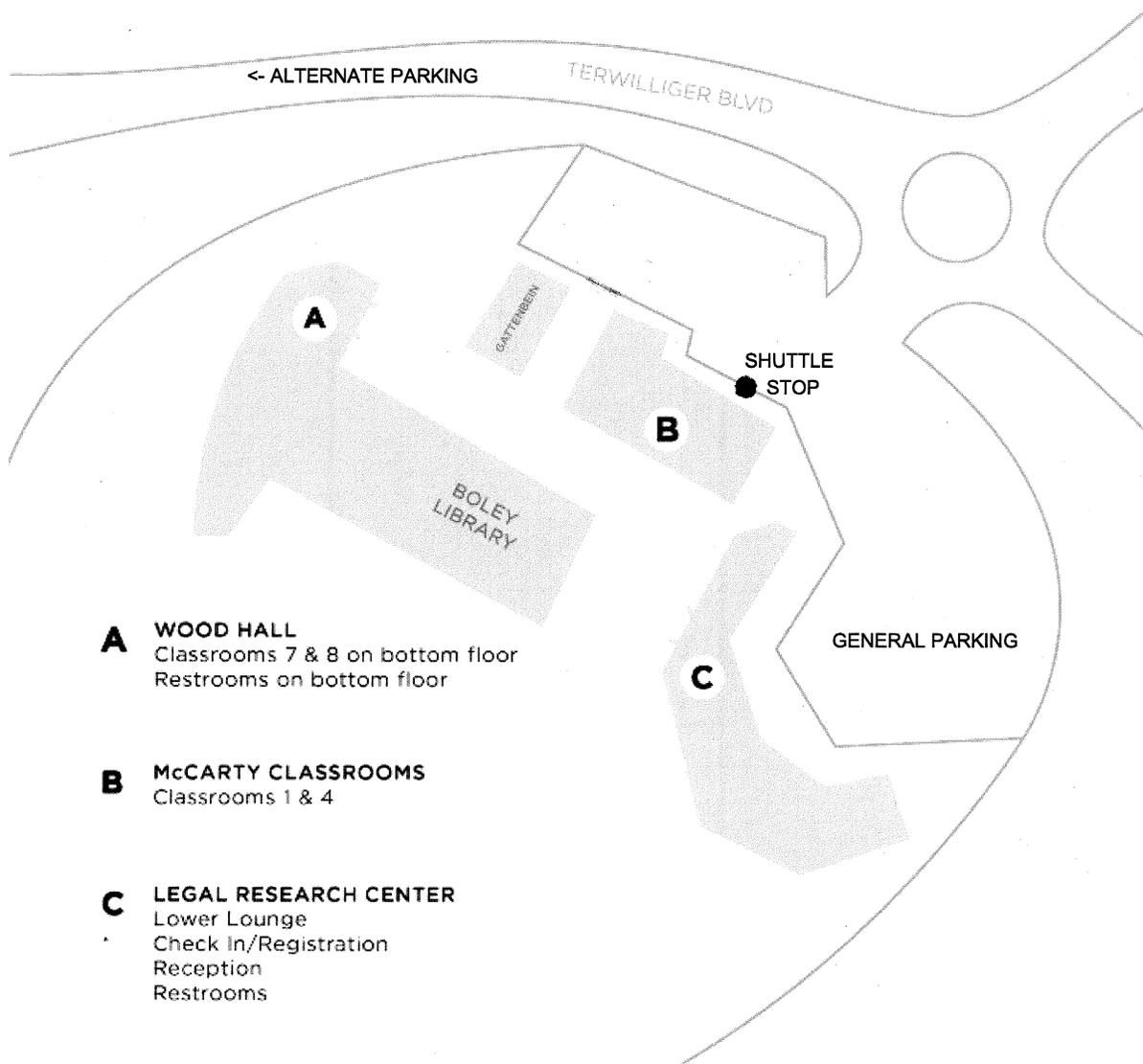
SATURDAY A.M.

Pick Up Location	Drop Off Location	Staging/Early Board Time	Departure Time
Marriott Hotel	Lewis & Clark Law School	7:15am	7:30am
Marriott Hotel	Lewis & Clark Law School	7:20am	7:35am
Marriott Hotel	Lewis & Clark Law School	7:40am	7:55am
Marriott Hotel	Lewis & Clark Law School	7:55am	8:10am

SATURDAY P.M.

Pick Up Location	Drop Off Location	Staging/Early Board Time	Departure Time
Lewis & Clark Law School	Marriott Hotel	4:45pm	5:00pm
Lewis & Clark Law School	Marriott Hotel	5:30pm	5:45pm

CAMPUS MAP



A **WOOD HALL**
Classrooms 7 & 8 on bottom floor
Restrooms on bottom floor

B **McCARTY CLASSROOMS**
Classrooms 1 & 4

C **LEGAL RESEARCH CENTER**
Lower Lounge
Check In/Registration
Reception
Restrooms

FRIDAY JUNE 20

13TH ANNUAL CRIME VICTIM LAW CONFERENCE

SCHEDULE AT A GLANCE

7:30 am	CONTINENTAL BREAKFAST/CHECK IN*
8:45 am	WELCOME & CONFERENCE OPENING*
9:00 am	OPENING PLENARY*
10:20 am	BREAKOUT SESSIONS
11:35 am	LUNCHEON PLENARY & AWARDS*
1:25 pm	BREAKOUT SESSIONS
3:00 pm	BREAKOUT SESSIONS
4:30 pm	CLOSING PLENARY*
5:00 pm	CRIME VICTIMS' RIGHTS RECEPTION*

*Held in the Lower Lounge

Welcome & Conference Opening

8:45 - 9:00 AM - Lower Lounge

Meg Garvin, M.A., J.D., *National Crime Victim Law Institute*

Opening Plenary

9:00 - 10:00 AM - Lower Lounge

ARCHITECTURE OF A VICTIMS' RIGHTS CASE: How Amy Made it to the U.S. Supreme Court

Paul Cassell, J.D., *S.J. Quinney College of Law at the University of Utah*

James Marsh, J.D., *Marsh Law Firm*

BREAKOUT SESSIONS (10:20-11:35 am)

FUNDAMENTALS OF VICTIMS' RIGHTS FOR ATTORNEYS

Classroom 1

Meg Garvin, M.A., J.D., *National Crime Victim Law Institute*

REEVALUATING THE RELIABILITY ASSUMPTIONS THAT SUPPORT THE RULE OF EVIDENCE: Impact on Victims of Crime

Classroom 4

Jennifer Brobst, J.D., *Center for Child and Family Health*

THE NEUROBIOLOGY OF TRAUMA: Using Science to Explain Counterintuitive Victim Behavior to Courts

Classroom 7

Christopher Wilson, Psy.D., *Licensed Psychologist*

FROM VICTIM TO PERPETRATOR: Shifting Identities in the Eyes of the Law

Classroom 8

Joshua Safran, J.D., *Attorney*

Luncheon Plenary

11:35 AM - 1:05 PM Lower Lounge

MODERN DAY SLAVERY - At Home and Abroad

Hon. Amanda Marshall, J.D.,

United States Attorney, District of Oregon

Presentation of NCVLI Awards

BREAKOUT SESSIONS (1:25-2:40 pm)

A HIGH WIRE ACT: Advocating for Victims While Avoiding Unlawful Practice of Law

Classroom 1

Terry Campos, J.D., *National Crime Victim Law Institute*

Helen O'Brien, *Oregon Department of Justice*

VICTIMS' RIGHTS IN STATE AND FEDERAL POST-SENTENCING PROCEEDINGS - How Victims and Victims' Representatives Can Make a Difference

Classroom 4

Thomas Brunner, J.D., *Utah Attorney General's Office*

Russell Butler, J.D., *Maryland Crime Victims' Resource Center, Inc.*

TITLE IX: What Every Victim's Attorney Should Know

Classroom 7

John Clune, J.D., *Hutchinson, Black and Cook, LLC*

ACCESS TO JUSTICE FOR VICTIMS WHO ARE VISUALLY IMPAIRED

Classroom 8

Rebecca Khalil, J.D., *National Crime Victim Law Institute*

Dave Ponce, *Guide Dogs of America*

Richard Turner, M.S.W., *Oregon Commission for the Blind*

BREAKOUT SESSIONS (3:00-4:15 pm)

REPRESENTING HIGH PROFILE SURVIVORS IN A HIGH-TECH ERA: The Impact of Comprehensive Services

Classroom 1

Nikki Charles, M.A., *Network for Victim Recovery of DC*

Bridgette Harwood, J.D., *Network for Victim Recovery of DC*

Matt Ornstein, J.D., *Network for Victim Recovery of DC*

RAPE REFORM: Where Have We Been and Where Are We Going?

Classroom 4

Doug Beloof, J.D., *Lewis & Clark Law School*

IMPROVING THE LAW ENFORCEMENT RESPONSE TO SEXUAL VIOLENCE: The You Have Options Program Explained

Classroom 7

Carrie Hull, *Ashland Police Department*

UNDERSTANDING THE SWORD AND SHIELD OF TECHNOLOGY

Classroom 8

Valenda Applegarth, J.D., *Boston Legal Services*

Closing Plenary

4:30 - 5:00 PM Lower Lounge

THE LONG JOURNEY FOR VICTIMS

Doug Houser, J.D., *Bullivant, Houser, Bailey, P.C.*

Crime Victims' Rights Reception

5:00 - 6:30 PM Lower Lounge

SATURDAY JUNE 21

13TH ANNUAL CRIME VICTIM LAW CONFERENCE

SCHEDULE AT A GLANCE

7:45 am	CONTINENTAL BREAKFAST*
8:30 am	OPENING PLENARY*
9:40 am	BREAKOUT SESSIONS
11:15 am	BREAKOUT SESSIONS
12:30 pm	LUNCHEON PLENARY & AWARDS*
2:25 pm	BREAKOUT SESSIONS
3:50 pm	CLOSING PLENARY*

*Held in the Lower Lounge

Opening Plenary

8:30 - 9:20 AM - Lower Lounge

AUDISM & DEAF COMMUNITY CULTURAL WEALTH

Flavia Fleischer, Ph.D., *California State University, Northridge*

BREAKOUT SESSIONS (9:40-10:55 am)

HUMAN TRAFFICKING AND INTERSECTIONS OF CIVIL, CRIMINAL, AND ADMINISTRATIVE SYSTEMS: A Case Study - Part 1

Classroom 1

Megan Dorton, J.D., *Legal Aid Services of Oregon*
Jessica Glynn, J.D., *Safe Horizon Anti-Trafficking Program*
Amy Liu, J.D., *National Crime Victim Law Institute*
Katrina Watson, J.D., *Immigration Counseling Service*

SURVEY OF EMERGING ISSUES IN VICTIM LAW: Online Victimization, Restitution, and Trauma in U.S. Tribal Policy

Classroom 4

Susan East Nelson, *Southern University Law Center*
Alexandra Kinsella, *University of Colorado Law*
Eryn-Jean Duffy, Tom Lindfield, & Caitlin Meers, *International Perspectives on Cybercrime Intensive Exchange Program*

THE UNIQUE HURDLES FACED BY LGBT CRIME VICTIMS & THEIR FAMILIES

Classroom 7

Shelbi Day, J.D., *Attorney*

THE UNIQUE CHALLENGES OF PROTECTING CHILD-VICTIMS' RIGHTS

Classroom 8

Meghan Bishop, J.D., *Attorney*
Sarah Hunt, J.D., *Stateside Associates*

BREAKOUT SESSIONS (11:15 -12:30 pm)

HUMAN TRAFFICKING AND INTERSECTIONS OF CIVIL, CRIMINAL, AND ADMINISTRATIVE SYSTEMS: A Case Study - Part 2

Classroom 1

Megan Dorton, J.D., *Legal Aid Services of Oregon*
Jessica Glynn, J.D., *Safe Horizon Anti-Trafficking Program*
Amy Liu, J.D., *National Crime Victim Law Institute*
Katrina Watson, J.D., *Immigration Counseling Service*

CAUSATION & THE DEFINITION OF VICTIM: Implications for Restitution Specifically

Classroom 4

Rebecca Khalil, J.D., & Sarah LeClair, J.D., *National Crime Victim Law Institute*

"PURSUIT OF TRUTH: ADULT SURVIVORS OF CHILD SEXUAL ABUSE SEEKING JUSTICE." A Film Screening and Discussion

Classroom 7

Valerie Gibson, J.D., *Vertigo Charitable Foundation, LLC*
Neil Jaffee, J.D., *Vertigo Charitable Foundation, LLC*

FEDERAL CRIME VICTIMS' RIGHTS ACT: Looking back on 10 Years of Litigation

Classroom 8

Russell Butler, J.D., *Maryland Crime Victims' Resource Center, Inc.*
Paul Cassell, J.D., *S.J. Quinney College of Law at the University of Utah*

Luncheon Plenary

12:30 - 2:05 PM - Lower Lounge

MILITARY SPECIAL VICTIM COUNSEL PROGRAM- REFLECTIONS ON YEAR OF PRACTICE AND LESSONS FOR THE FUTURE

Capt. Seth Dilworth, J.D., *United States Air Force*

Presentation of NCVLI Awards

BREAKOUT SESSIONS (2:25-3:40 pm)

VICTIMS' RIGHTS YEAR IN REVIEW

Classroom 1

Meg Garvin, M.A., J.D., *National Crime Victim Law Institute*

MILITARY SEXUAL ASSAULT: How the Military Infrastructure Can Simultaneously Provide Unparalleled Services to Victims While Adding to Their Trauma

Classroom 7

Capt. Lauren Rosenblatt, J.D., *United States Air Force*
Capt. Aaron Buzawa, J.D., *United States Air Force*

ADVOCATING FOR CHILD VICTIMS OF CRIME IN THE 21st CENTURY

Classroom 8

Warren H. Binford, J.D., *Clinical Law Program Willamette University College of Law*

Closing Plenary

3:50 - 4:30 PM Lower Lounge

ADVANCING VICTIMS' RIGHTS

Doug Beloof, J.D., *Lewis & Clark Law School*
Paul Cassell, J.D., *S.J. Quinney College of Law at the University of Utah*
Meg Garvin, J.D., *National Crime Victim Law Institute*

Crime Victims' Rights Reception

Celebrate another year of hard work on behalf of victims Friday, June 20th starting at 5pm in the Lower Lounge
(immediately following the closing plenary)

Catch up and network while enjoying live music, food and drinks!

Participate in fun fundraising activities to support victims while taking advantage of great deals on items from local and national businesses.

Some of the activities:

- 50/50 Raffle – you have one free raffle ticket in with your nametag. Purchase additional raffle tickets – one for \$50 or five for \$20. Half of the proceeds go to you, half go to NCVLI to help advance victims' rights. You must be present to win. Winner will be drawn at 6:00pm on Friday night!
- Bid in our silent auction. Opening bids start as low as \$8. Your bid number is on the back of your nametag. Some items close on Friday and some on Saturday. Once bidding has closed, look for your bid number to be posted on Auction Tables. If your number is listed, go to the Payment Table (look for green balloons) to pay and pick up your item(s). Payment and pick up can also be made Saturday at the Merchandise and Donation Table. You do not need to be present to be the highest bidder but NCVLI cannot ship items.
- Stop by our Merchandise Table to view Survivor inspired jewelry, clothing, and mugs. All proceeds support NCVLI's work for crime victims.

Thank You to our Reception Donors!

White Table – Opening bids \$20 and under - Bidding closes at 5:45pm Friday	
Lan Su Chinese Gardens	Pittock Mansion
Portland Japanese Gardens	Base Camp Brewing gift card
Benihana, Inc. gift card	Ardiri Winery – wine tasting for 4
Stash Tea – tea, storage box, mug	Melitta USA, Inc. – coffee gift set
Oregon Zoo	The Cheesecake Factory gift card
Naked Winery – bottle of pinot noir	Whole Foods Market gift card
HairM - men’s hair cut	Bolt Fabric Boutique – fabric and gift card
Kruger’s Farm Market – produce basket	Nike Oregon Duck Women’s t-shirt and hat

Yellow Table – Opening Bids \$20-40 - Bidding closes at 6:00pm Friday	
Britt Festivals – admission to Classical music festival	Mt. Hood Meadows – adult day pass
Archery Summit – bottle of 2011 Ribbon Ridge Pinot Noir	Bob’s Red Mill Natural Foods – gift basket with products, gift card, and logoed items
Costco gift card	A Flair for Hair gift card
Massage Envy gift card	Eddie Bauer Backpack
Portland Timbers tickets	Seattle Mariners autographed baseball
Beatography – framed braille wall art	Set of 6 porcelain bowls
Olive Oil gift box and cheese board	

Orange Table – Opening Bids \$50+ - Bidding closes at 6:15pm Friday	
Voicebox VIP Party package	Samsonite Business One Mobile Office
California Academy of Science (San Francisco) admission tickets	Eastside Distilling – private party for 10
Peju Province Winery – private barrel tasting & VIP Tour for 4	Willamette Valley Vineyards – tour and tasting for 10
Udi’s Gluten-Free Products gift basket	Portland Trailblazers autographed basketball
Eddie Bauer Arclite Backpack	Eddie Bauer Karakoram Stormdown Sleeping Bag
Eddie Bauer Ignitor insulated Sleeping Bag	Eddie Bauer Stargazer 2 Tent
Nike Oregon Duck Player Polo	

Red Table – bidding closes at 11:15am Saturday	
Portland Couples Staycations (hotel, local attraction, special gift)	Explore the Gorge (hotel, wine, restaurant gift card)
Inn at Cannon Beach (Oregon Coast)	Oregon Ducks Helmet & Polo
Family Package (museum admission, SCRAP PDX, cooking class, DVD rentals, Jamba Juice gift card, produce basket)	Go Ducks! (tickets to football game, Duck Store gift card, hardcover book about Harward Field)
Oregon Marathon VIP race entry/Marine Corps Marathon Book	Coffee basket (coffee, mugs, liqueur, chocolate, gift card)
Chinook Winds Casino Resort (hotel stay, show tickets, gift show gift card)	Nike XL Men’s track suit w/ Oregon Duck logo

AWARD RECIPIENTS

The Conference provides an opportunity to acknowledge the amazing work of the heroes and heroines of the victims' rights movement. These are the people who help victims move toward survivorship and who inspire the rest of us to continue fighting for justice each day. Please join NCVLI as we honor these amazing individuals and organizations.

Amy Terrible, J.D. 2014 Outstanding Achievement Award - Legal Advocacy

NCVLI's Legal Advocacy Award recognizes crime victims' rights attorneys who have dedicated and committed their time to representing victims of crime in the criminal justice system.

In 2012, Amy Terrible launched the Crime Victim Advocacy Center of Tulare County to represent victims of crime in Central California. A former prosecutor, Amy's true passion is to achieve justice for victims by directly representing them in criminal cases against their offenders. Amy heard about NCVLI's work from a co-worker before becoming a victims' rights attorney. Over time she learned more about victims' rights and realized that direct representation of victims is what she wanted to do. Since June of 2012 Amy has been operating as a solo practitioner representing victims of crime, entirely pro bono. She has represented victims on a myriad of issues in a range of cases from representing the surviving family of a murder victim, to representing victims in a complex, multi-jurisdictional car theft case, to representing a child-victim in family court.

Past Recipients:

- Wendy Murphy (2001)
- Lyn Schollett (2002)
- Cynthia Lee Carter (2003)
- Jay Howell (2003)
- Richard D. Pompelio (2004)
- Paul Cassell (2005)
- Cynthia Hora (2006)
- Jamie Mills (2007)
- Steven J. Twist (2008)
- Crime Victims Legal Assistance Project (2009)
- Heidi Nestel (2010)
- Steven Kelley (2011)
- Erin K. Olson (2012)
- Russell Butler (2013)

AWARD RECIPIENTS

Catherine Harper Lee

2014 Outstanding Achievement Award - Gail Burns-Smith Excellence in Victim Services

Gail Burns-Smith was a member of NCVLI's Board of Directors from 2002 until her untimely death in 2009. The Gail Burns-Smith Excellence in Victim Services Award is an annual award designed to honor Gail's legacy as a tireless leader in the victims' rights community. The recipient of the award exemplifies Gail's leadership in advancing the rights of victims of crime and her tireless advocacy to shed light on often-hidden issues. The award was created in 2011 when NCVLI's general victim advocacy award which Gail had received in 2004 was re-named in Gail's honor. Because Gail continues to inspire and guide the work of NCVLI, not only does the recipient receive a physical award each year, but a perpetual plaque upon which each recipient's name is etched is on permanent display at NCVLI's offices in Portland, Oregon.

Catherine Harper Lee is the founder and Executive Director of The Justice League of Ohio (TJLO), which is based in Powell, Ohio, and is Ohio's only victims' rights legal clinic. For the past 20 years, Cathy has been pursuing her passion: restoring faith and balance in the criminal justice system. In 2003, she founded TJLO. TJLO was founded on the principle that victims of crime deserve and require legal representation to enforce and protect their constitutional and statutory legal rights throughout the criminal justice process. The TJLO Crime Victims' Rights Legal Clinic provides free legal representation to victims of violent crime throughout Ohio to ensure their constitutional and statutory rights are enforced and protected from the time a crime is first reported and throughout the criminal justice process. TJLO also provides free victims' rights trainings to hospitals, victim advocates, law enforcement, prosecutors, courts, and the community to promote awareness of crime victims' rights laws and to ensure consistent systemic implementation of Ohio's Crime Victims' Rights Laws. Cathy serves on Ohio Attorney Mike DeWine's Sexual Assault Kit Testing Commission, Ohio Attorney General Mike DeWine's Violent Crimes with Guns Advisory Council, Ohio Council on Victims Justice, and the Ohio Sexual Assault Task Force; and she is a member of the Ohio Victim Witness Association and the central Ohio Association for Justice, among other organizations.

Past Recipients (Award given was Victim Advocacy Award from 2004-2011; In 2011 a new award named Gail Burns-Smith Excellence in Victim Services was created):

- Gail Burns-Smith (2004)
 - Kathy Skaggs (2005)
 - Diane Moyer (2006)
 - John Stein (2007)
 - Roberta Roper (2008)
 - Steve Derene (2009)
 - Steve Doell (2010)
 - Anne Seymour (2011)
- Gail Burns-Smith Award Named**
- Gail Burns-Smith (2011, posthumously)
 - Jennifer Storm (2012)
 - Chanpone Sinlapasai-Okamura (2013)

AWARD RECIPIENTS

The Courthouse Dogs Foundation 2014 Outstanding Achievement Award - Victims' Rights Partnership

NCVLI's Victims' Rights Partnership Award recognizes the collaborative efforts of individuals and/or organizations that have devoted their time to advancing crime victims' rights.

The Courthouse Dogs Foundation is a non-profit staffed by retired senior deputy prosecuting attorney Ellen O'Neill-Stephens, veterinarian Celeste Walsen, and the lovely courthouse facility dog Molly B. Together they promote justice with compassion by helping prosecutors, detectives, victim advocates, judges and legislators understand how facility dogs can provide a sense of well-being and security to vulnerable victims and witnesses during stressful legal proceedings. Facility dogs are graduates from assistance dog organizations that are members of Assistance Dogs International and are handled by criminal justice professionals. The Foundation also provides guidance to these legal professionals about how to obtain these expertly trained dogs to become working members of their offices. This practice ensures that the dog and the handler will provide the best services to crime victims over a long working career together. Through their tireless efforts, Ellen and Celeste have shared their innovative program and partnered with other professionals to protect victims. As a result, there are now 67 courthouse facility dogs working in 25 states. For more information about this award winning organization visit www.courhousedogs.org.

Past Recipients:

- Grant County Prosecutor's Office & Dano, Gilbert & Ahrend P.L.L.C. (2006)
- Attorney General Hardy Myers (2007)
- Multnomah County District Attorney's Office, James McIntyre, & Russ Rato (2008)
- Mónica Ramírez (2009)
- Victim Witness Section of the U.S. Attorney's Office, Eastern District of Arizona (2010)
- Alaska Office of Victims' Rights (2011)
- Rocky Mountain Victim Law Center & Denver District Attorney's Office (2012)
- Coalition to Abolish Slavery and Trafficking (CAST) (2013)

AWARD RECIPIENTS

Shelbi Day, J.D.

2014 Outstanding Service Award - Pro Bono Attorney of the Year

NCVLI's Pro Bono of the Year Award recognizes an attorney or law firm that has dedicated significant time to partnering with NCVLI in the protection, enforcement, and advancement of victims' rights. The recipient has either worked alongside NCVLI attorneys to assist with NCVLI's work on legal technical assistance requests, amicus curiae briefs, and public policy projects; has provided direct representation to victims of crime in criminal proceedings; or has served as local counsel in the filing of amicus briefs.

Shelbi Day has devoted her career to civil rights work and has had the privilege of working on several precedent setting cases on a diverse range of issues. Since 2007, Day has focused her work exclusively on LGBT- and HIV- related issues. Most recently, she was a Staff Attorney in the Western Regional Office of Lambda Legal, Staff Attorney at the ACLU of Florida, and Staff Attorney at the Southern Regional Office of the National Center for Lesbian Rights. She is a graduate of the University of Florida Levin College of Law. Shelbi Day began volunteering for NCVLI in 2013 after relocating to Portland. Since her arrival, she has worked on legal research memoranda and supported NCVLI's amicus curiae efforts. Her work has helped NCVLI support survivors across the country. In addition, she is working with NCVLI leadership to enhance NCVLI's portfolio of victim services so that we can become more holistic in our work and better serve the entire community.

Past recipients:

- Michael Fell (2012)
- Perkins Coie (2013)

AWARD RECIPIENTS

Elizabeth Morris 2014 Outstanding Service Award - Volunteer of the Year

NCVLI's Volunteer of the Year Award recognizes an individual who has demonstrated a deep commitment to victims' rights by providing significant contributions to enhance NCVLI's work on behalf of victims.

Elizabeth Morrison came to NCVLI in November 2013 after graduating from Washington State University with her Bachelors of Arts. There she studied Political Science with an emphasis in Pre-Law. Her interests include the Military Legal System as well International Law. "Before starting for NCVLI, I was not aware that Victims' Rights was an area of law that has so much room for advancement." She also stated, "Volunteering for NCVLI has given me the vision and inspiration to empower victims and help advocate for their voice to be heard." From event planning to data entry to creating publications, Elizabeth has been a part of many aspects of NCVLI's work for victims. So far Elizabeth has donated more than 250 hours to NCVLI with plans to continue donating through the end of the year! She also works as a waitress at Cactus Yaya in Vancouver, Washington. In her spare time Elizabeth enjoys exploring the wonders of the Pacific Northwest; reading suspense, mysteries and current events; traveling; and following a paleo lifestyle.

Past recipients:

- Matthew Merryman (2012)
- Caroline Park (2013)

SESSION DESCRIPTIONS

FRIDAY, JUNE 20

BREAKFAST

7:30 am – Lower Lounge

WELCOME & CONFERENCE OPENING

8:45 am – Lower Lounge

OPENING PLENARY

9:00 am – Lower Lounge

ARCHITECTURE OF A VICTIMS' RIGHTS CASE: HOW AMY MADE IT TO THE U.S. SUPREME COURT

Paul Cassel, J.D.
James Marsh, J.D.

On January 22, 2014, the United States Supreme Court heard for the first time from an attorney for a crime victim in a criminal case filed by the Government. The case was *Paroline v. United States & Amy* and concerned the proper determination of restitution for victims of child pornography. The case was also a three-sided case, with the victim, the Government, and the criminal defendant all presenting competing arguments about how to award restitution. In this presentation, Paul Cassell and James Marsh will explain how they represented Amy in her quest to obtain full restitution for psychological counseling costs and lost income. They will explain how they developed and documented her losses, argued her position before the trial court, took an appeal to the court of appeals, and ultimately succeeded in getting the issue before the United States Supreme Court. Cassell and Marsh argued the case before the Court on January 22, 2014, and the Court issued a ruling on April 23, 2014. Cassell and Marsh will discuss the Court's 5-4 decision and the proposed legislation that followed.

BREAKOUT SESSIONS

10:20 am – 11:35 am

FUNDAMENTALS OF VICTIMS' RIGHTS FOR ATTORNEYS

(Classroom 1)
Meg Garvin, M.A., J.D.

This session will be an overview of victims' rights laws, an identification of the most common stages in a criminal proceeding at which victims' rights are at risk of being infringed upon, and an articulation of trial-level litigation strategies for enforcing victims' rights. The presenter will discuss ethical issues and victims' rights motion practice pretrial; some time will be spent discussing sentencing and appellate proceedings.

REEVALUATING THE RELIABILITY ASSUMPTIONS THAT SUPPORT THE RULES OF EVIDENCE: IMPACT ON VICTIMS OF CRIME

(Classroom 4)
Jennifer Brobst, J.D.

This presentation addresses new medical and mental health research on the impact of trauma and other conditions that could challenge the assumptions of reliability underlying certain rules of evidence. For example, hearsay exceptions such as excited utterance, present sense impression, and statements for the purpose of medical diagnosis and treatment presuppose that victims of crime will respond soon after the event in a particular way. Research tells us the response is much more varied than putting full trust in medical practitioners or behaving in a visibly excited manner. Given what we now know about flat affect, distrust of systems, and mental perceptions during crises, legal practitioners should challenge traditionally conservative views of the admissibility of evidence relating to crime victim responses through argument in litigation and advocacy for reform of the rules themselves. Tips for practitioners will be provided in addition to suggested reform of evidentiary provisions.

SESSION DESCRIPTIONS

THE NEUROBIOLOGY OF TRAUMA: USING SCIENCE TO EXPLAIN COUNTERINTUITIVE VICTIM BEHAVIOR TO COURTS

(Classroom 7)

Christopher Wilson, Psy.D.

All too often, behaviors of victims cause the public and those in the criminal justice system to doubt a victim's story. In fact, it is not uncommon to hear someone decry a victim for "not acting like a victim." This session will focus on the impact of trauma on the brain and how understanding this impact can help explain seemingly counterintuitive behavior of victims. Among the behaviors that appear counterintuitive and which will be discussed in the session: perceived exaggerated fear responses of domestic violence victims; victims of domestic violence and sexual assault continuing to spend time with their perpetrator; non- or delayed disclosure of one's victimization; and flat affect when discussing the details of one's victimization. Specific case examples will be used throughout the session and participants will not only gain an understanding of the "why" of some behaviors but also leave ready to explain the same to the courts, including through expert testimony.

FROM VICTIM TO PERPETRATOR: SHIFTING IDENTITIES IN THE EYES OF THE LAW

(Classroom 8)

Joshua Safran, J.D.

The judicial system's binary view of victim versus perpetrator crumbles dramatically in the messy real world of intimate partner battering and its effects. In many cases, the law affords sufferers of battering "victim status" up until the moment they seek to help themselves. Then they cease being victims and become "perpetrators" in the eyes of the law, while their perpetrators are instantly transformed into "victims." As the cycle of violence passes onto the next generation, child-victims grow into the batterers who victimized them, flip-flopping legal identities and judicial sympathies. This presentation will examine case law, penal codes, and Joshua

Safran's real-world experiences as both an advocate and a survivor, including multi-media presentations from his work in the award-winning documentary *Crime After Crime* (Sundance, OWN) and his critically acclaimed book *Free Spirit: Growing Up On the Road and Off the Grid*.

LUNCHEON PLENARY

11:35 am – Lower Lounge

MODERN DAY SLAVERY – AT HOME AND ABROAD

Hon. Amanda Marshall, J.D.

Human trafficking, the illegal trade of human beings for the purposes of commercial sexual exploitation, forced labor, or a modern-day form of slavery, is a \$32 billion industry per year and is second only to drug trafficking as the number one criminal endeavor in the world. Over 800,000 people are trafficked across international borders each year; 50 percent of them are children and 80 percent of them are women and girls. A common misconception about human trafficking is that it only happens abroad. In reality, it is also happening right here in the United States and in our own backyards. Amanda Marshall, the United States Attorney for the District of Oregon, will discuss this growing threat.

BREAKOUT SESSIONS

1:25 pm – 2:40 pm

A HIGH WIRE ACT: ADVOCATING FOR VICTIMS WHILE AVOIDING UNLAWFUL PRACTICE OF LAW

(Classroom 1)

Terry Campos, J.D.

Helen O'Brien

Wonderfully, there are a myriad of trainings for the field about victims' rights and how to protect those rights. Unfortunately, rarely do we discuss the line between vigorous non-legal advocacy and the unlawful practice of law. As victims' rights become more and more integrated into the

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practice of law, ensuring one's advocacy does not inadvertently cross this line is critical. This session will include a discussion of law and ethics, applying them to fact scenarios to help advocates and attorneys learn to navigate the line.

VICTIMS' RIGHTS IN STATE AND FEDERAL POST-SENTENCING PROCEEDINGS – HOW VICTIMS AND VICTIMS' REPRESENTATIVES CAN MAKE A DIFFERENCE

(Classroom 4)

Thomas Bruner, J.D.

Russell Butler, J.D.

Lawyers and judges like to recite that "justice delayed is justice denied." The magnitude of the injustice is greatest for crime victims and their survivors, who have been dragged into the criminal justice system by their victimizers. This breakout session is designed to educate attorneys and non-lawyers about the process available to criminal defendants that occurs post-sentencing through all layers of review. The goal is to help persons who counsel crime victims and who represent them understand this process so that they can explain to the victims why their victimizers are still in the court system and what assistance can be provided. It will also identify the places in the system where crime victim involvement is more likely to make a difference, and include some suggestions for potential pro-victim representation as well as working with prosecutors and attorneys general as part of the post sentencing process. The rights involved will include the rights to notice, proceedings free from unreasonable delay, fairness, and other analogous rights.

TITLE IX: WHAT EVERY VICTIM'S ATTORNEY SHOULD KNOW

(Classroom 7)

John Clune, J.D.

This session will be a nuts and bolts overview of helping a campus rape survivor through the varying Title IX remedies and procedures that follow a report of sexual assault to a university.

Whether you are an attorney, victim advocate, family member, or mental health provider, this session will provide a foundation for helping students understand and exercise their rights and options under Title IX. Questions to be addressed include: Should the victim report to the police as well the university and if so, when? What are the school's Title IX obligations in response to learning of an assault? What are the school's obligations if the victim doesn't want to cooperate? Is there a way for a victim to participate without attending a hearing? How can you get interim protective measures and get them enforced. What are the types of grievance procedures? What can you do if the school is violating their own policies? What are the benefits of filing a complaint to the Office of Civil Rights? Should the victim consider a civil lawsuit? The presenter will go into detail from both a legal and strategic standpoint to provide a solid groundwork for understanding the role of Title IX on the remedies available for rape survivors.

ACCESS TO JUSTICE FOR VICTIMS WHO ARE VISUALLY IMPAIRED

(Classroom 8)

Rebecca Khalil, J.D.

Dave Ponce

Richard Turner, M.S.W.

Victims of crime often find criminal proceedings to be complicated, and exercising their rights in connection with a criminal case may pose challenges that can be overcome with the help of victims' rights attorneys and advocates. When a victim is visually impaired, additional hurdles may stand in the way of his or her access to justice and assertion of rights. This presentation will address practical tips for working with a client who is visually impaired, identify some of the challenges these individuals may face when interacting with the criminal justice system, and articulate how attorneys can facilitate the exercise of victims' constitutional and/or statutory rights. Sample topics include an overview of what practitioners should know about interacting with an individual who is

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visually impaired, hurdles that victims might face when interacting with law enforcement or reporting a crime, and what accommodations may be necessary/helpful for a visually impaired victim to attend and participate in criminal proceedings and processes in a meaningful way.

BREAKOUT SESSIONS

3:00 pm – 4:15 pm

REPRESENTING HIGH PROFILE SURVIVORS IN A HIGH-TECH ERA: THE IMPACT OF COMPREHENSIVE SERVICES

(Classroom 1)

Nikki Charles, M.A.

Bridgette Harwood, J.D.

Matt Ornstein, J.D.

On January 1, 2013, a female martial arts athlete was gang raped by two of her male teammates in a parking garage after attending a New Year's Eve party in Washington, D.C. The high profile nature of the case caused the responding sexual assault advocate to recommend a victims' rights attorney who was retained before the arrests were made. The case involved a victim-sensitive prosecutor and detective, major privacy issues, notable social media involvement, a very vocal martial arts community, and ultimately a criminal trial and a pending civil suit in which the victim is represented pro bono by a private civil attorney. Join this victim's legal and advocacy team for a panel discussion as we discuss the challenges of ensuring privacy of survivors regarding the use of technology; a criminal investigation, trial, and verdict; and the ongoing civil suit against the two perpetrators, the nightclub where the victim was served, and the garage where the assault took place.

RAPE REFORM: WHERE HAVE WE BEEN & WHERE ARE WE GOING

(Classroom 4)

Doug Beloof, J.D.

In the 1970s it was recognized that rape victims were being treated poorly in the criminal justice

system and that rape laws were severely lacking when it came to protecting victims. The goal of the initial rape reform movement was to improve outcomes for victims and the system by shifting the focus off the behavior and reputation of victims and on to the conduct of the offender. Rape reform came in a myriad of forms including redefining rape, eliminating the corroboration requirement, restricting evidence regarding victims' prior sexual conduct, and more. Have these reforms worked? Are victims of sexual violence who must navigate the criminal justice system better off today than they were in the 1970s? What do recent military reforms regarding rape law teach us? What is on the horizon when it comes to rape reform? This session will provide an overview of the history of rape reform, assess the current landscape for victims, and propose future steps that might be taken to improve justice outcomes for victims.

IMPROVING THE LAW ENFORCEMENT RESPONSE TO SEXUAL VIOLENCE: THE YOU HAVE OPTIONS PROGRAM EXPLAINED

(Classroom 7)

Carrie Hull

Detective Carrie Hull of the Ashland Police Department (Oregon) will present on the creation and implementation of the You Have Options Program that transforms the criminal justice response to sexual assault by focusing on two fundamental elements in the response to sexual violence: increasing the number of victims who report to law enforcement and thoroughly investigating identified offenders for serial perpetration. Attendees will learn why a successful, proactive law enforcement response to sexual violence includes the following six key components: 1) increased sexual assault reporting so offenders are identified and serial perpetration is documented, providing a more compelling and accurate picture of offenders; 2) prioritization of a victim's access to advocacy and medical care independent of the victim's choice to pursue a criminal investigation; 3) collaboration with sexual assault victims to

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identify and address the unique barriers each faces when choosing to pursue and prosecute the person who assaulted them; 4) creation of partnerships with advocacy, Sexual Assault Response Teams, and experts in the field to ensure the law enforcement response is appropriate, effective, and victim-centered at all times; 5) community education about why an increase in sexual assault reporting is a positive sign and must occur to ultimately reduce victimization; and 6) training and accountability for every member of the law enforcement agency on the same victim-centered response and offender-focused investigation.

UNDERSTANDING THE SWORD AND SHIELD OF TECHNOLOGY

(Classroom 8)

Valenda Applegarth, J.D.

Technology can be used to stalk, harass, and violate laws meant to protect victims, or to enhance victim privacy and safety. This session will showcase both aspects of technology using examples from cases of sexual assault, domestic violence, stalking, forced marriage, and other crimes. In addition, the session will address internet data gathering and sharing and what tools are presently used to protect privacy in browsing the Internet, and gaining anonymity. The session will integrate a live demonstration using stations where participants can use the tools discussed to teach practitioners the “how to” of enhancing victim privacy.

CLOSING PLENARY

4:30pm – Lower Lounge

THE LONG JOURNEY FOR VICTIMS

Doug Houser, J.D.

Popular culture presents criminal trials as a moment of “closure” for victims of crime. Yet many victims’ cases never go to trial and even for those victims whose cases do go to trial that is rarely, if ever, the end of their journey. In fact, for some victims and their families the appeals process results in years, and even decades, of being enmeshed in the criminal justice system. And even for victims with the best support systems – from family to law enforcement to prosecution to community – the delays in justice are tortuous. In this closing plenary, Doug Houser will share the story of his family’s journey through the criminal justice system, talking about what people did that helped, what they could have done differently, and the work he did to pass new law in Oregon to afford victims the right to speedy disposition.

CRIME VICTIMS’ RIGHTS RECEPTION

5:00pm – 6:30pm

Lower Lounge

Jazz duo, appetizers, beverages, games, and silent auction!

SESSION DESCRIPTIONS

SATURDAY, JUNE 21

BREAKFAST

7:45 am – Lower Lounge

OPENING PLENARY

8:30 am – Lower Lounge

AUDISM & DEAF COMMUNITY CULTURAL WEALTH

Flavia S. Fleischer, Ph.D.

Deaf people constitute an oppressed linguistic minority group, but they have had a long history of resisting oppression through the utilization of Deaf Community Cultural Wealth (DCCW). This plenary will explore audism, what it is, and how it manifests itself. The presenter will also discuss the role of DCCW and its six capitals, which are linguistic, social, familial, navigational, aspirational, and resistant, in resisting audism. Each of these capitals will be explained and examples will be given as to how Deaf people actively resist oppression in order to not only survive but also thrive. In understanding DCCW, we become better able to understand the value and importance of Deaf community to our society.

BREAKOUT SESSIONS

9:40 am - 10:55 am

HUMAN TRAFFICKING AND INTERSECTIONS OF CIVIL, CRIMINAL, AND ADMINISTRATIVE SYSTEMS: A CASE STUDY – PART 1

(Classroom 1)

Megan Dorton, J.D.

Jessica Glynn, J.D.

Amy Liu, J.D.

Katrina Watson, J.D.

Like many crime victims, human trafficking victims encounter numerous challenges on the road to recovery and survival. In this two-part presentation, panelists with expertise in different legal disciplines — immigration, housing/family

law, labor/employment, and crime victims' rights — use a hypothetical fact scenario to identify legal issues that may arise when helping human trafficking victims navigate the administrative, civil, and criminal justice systems. The focus is on issue-spotting rather than substantive law. The goal of the case study used is to highlight the myriad legal challenges that the victims may encounter and the importance of working with, and referrals to, partners with different legal expertise. Part I of this two-part presentation addresses some of the victims' legal needs before the criminal trials against their traffickers commence. Part II addresses additional potential legal issues that may arise when representing human trafficking victims. Attendees may attend one or both sessions.

SURVEY OF EMERGING ISSUES IN VICTIM LAW: ONLINE VICTIMIZATION, RESTITUTION, AND VIOLENCE AND TRAUMA IN U.S. TRIBAL POLICY

(Classroom 4)

Eryn-Jean Duffy

Alexandra Kinsella

Tom Lindfield

Caitlin Meers

Susan Nelson

In this session a panel of two law students from the United States and three students from the International Perspectives on Cybercrime Intensive Exchange Program will discuss emerging issues in victim law. From a look at why victims of child abuse imagery (a.k.a. child pornography) have challenges with financial recovery to the effects of the Violence Against Women Act on Indian women to the international aspects of online victimization of children and vulnerable adults, panelists will analyze the laws that present unique challenges to each victim population and provide a vision about how we can better serve these populations.

SESSION DESCRIPTIONS

THE UNIQUE HURDLES FACED BY LGBT CRIME VICTIMS & THEIR FAMILIES

(Classroom 7)
Shelbi Day, J.D.

This session will address the intersection of the rights of lesbian, gay, bisexual, and transgender (LGBT) people and their families and the rights of crime victims. While LGBT rights are at a watershed moment in history and many important gains toward equality have been made, there is still much to be done across the United States. Laws pertaining to LGBT people and their families vary drastically from state to state and at the federal level, and they are evolving rapidly – in some areas of law monthly, weekly, and even daily. While exciting and increasingly beneficial to all LGBT people, the varied and evolving legal landscape can create unique hurdles for those who are victims of crimes and their families. This session will provide participants with an overview of the legal landscape pertaining to LGBT people and address the ways in which it can affect victims' rights, including access to criminal and civil justice; the types of protections and remedies that exist; the way LGBT people and their families are viewed and treated by courts, law enforcement, advocates, community members, and the media; and the availability of resources and services.

THE UNIQUE CHALLENGES OF PROTECTING CHILD-VICTIMS' RIGHTS

(Classroom 8)
Meghan Bishop, J.D.
Sarah Hunt, J.D.

A local news source has published identifying information and Facebook photos of your toddler age child-victim. A dependency lawyer is appointed because both of the child's parents are now suspects. A close relative is spreading misinformation to the media, jeopardizing the prosecution. Grandparents, whose own child is the accused perpetrator, want access to their grandchild. What do you do? What legal means and community support are available? Drawing

from their real life cases, a victims' rights activist and a juvenile dependency specialist, both attorneys, will discuss legal and practical guidelines for safeguarding your child-victim's best interests in these delicate situations. They will also explore possible legal changes that will create additional needed protections for child-victims in areas where there is currently a vacuum.

BREAKOUT SESSIONS

11:15 am – 12:30 pm

HUMAN TRAFFICKING AND INTERSECTIONS OF CIVIL, CRIMINAL, AND ADMINISTRATIVE SYSTEMS: A CASE STUDY – PART 2

(Classroom 1)
Megan Dorton, J.D.
Jessica Glynn, J.D.
Amy Liu, J.D.
Katrina Watson, J.D.

Like many crime victims, human trafficking victims encounter numerous challenges on the road to recovery and survival. In this two-part presentation, panelists with expertise in different legal disciplines — immigration, housing/family law, labor/employment, and crime victims' rights — use a hypothetical fact scenario to identify legal issues that may arise when helping human trafficking victims navigate the administrative, civil, and criminal justice systems. The focus is on issue-spotting rather than substantive law. The goal of the case study used is to highlight the myriad legal challenges that the victims may encounter and the importance of working with, and referrals to, partners with different legal expertise. Part 2 picks up where Part 1 left up and addresses additional potential legal issues that may arise when representing human trafficking victims. Attendees may attend one or both sessions.

SESSION DESCRIPTIONS

CAUSATION & THE DEFINITION OF VICTIM: IMPLICATIONS FOR RESTITUTION SPECIFICALLY

(Classroom 4)

Rebecca Khalil, J.D.

Sarah LeClair, J.D.

It is critical to address the legal question of causation in the context of restitution. The dual concepts of direct (but for) causation and proximate (foreseeability) causation are ever present. In many victims' rights cases, causation challenges are raised in opposition to victims' rights to restitution. In this roundtable, presenters will facilitate discussion of some of the most complex causation challenges that victims' rights attorneys face when seeking restitution. Questions addressed include: What issues arise when a victim seeks restitution for certain types of losses (e.g., future losses) or in cases involving multiple defendants? Who is a victim for restitution purposes? What are some of the restitution questions that arise in cases of so-called "victimless" or "societal" crimes (e.g., felon-in-possession of a weapon, leaving the scene of an accident, environmental offenses)? Come ready to discuss.

"PURSUIT OF TRUTH: ADULT SURVIVORS OF CHILD SEXUAL ABUSE SEEKING JUSTICE." A FILM SCREENING AND DISCUSSION

(Classroom 7)

Valerie Gibson

Neil Jaffee, J.D.

Film Screening. The session will consist of the screening of the award-winning documentary film, Pursuit of Truth: Adult Survivors of Child Sexual Abuse Seeking Justice, which depicts the plight of survivors who seek redress in the civil and criminal justice systems against their abusers. The film features the stories of survivors who describe their experiences in the legal system, interwoven with the commentary of experts in the field of adult survivor litigation. The film is an exposé of the justice system's mishandling of survivor cases and a call for fundamental legal reform.

FEDERAL CRIME VICTIMS' RIGHTS ACT: LOOKING BACK ON 10 YEARS OF LITIGATION

(Classroom 8)

Russell Butler, J.D.

Paul Cassell, J.D.

The federal Crime Victims' Rights Act (CVRA), 18 U.S.C. § 3771, was passed in October 2004. As we near the 10th anniversary of this landmark legislation, the presenters will provide an overview of how the law came into being and what it was intended to achieve. They will then discuss some of the most significant litigation under the CVRA over the past 10 years, identifying cases, arguments, and practices that have advanced victims' rights as well as those that have constrained victims' rights.

LUNCHEON PLENARY

12:30 pm – Lower Lounge

MILITARY SPECIAL VICTIM COUNSEL PROGRAM – REFLECTIONS ON A YEAR OF PRACTICE AND LESSONS FOR THE FUTURE

Capt. Seth Dilworth, J.D.

For more than one year, the United States Air Force has assigned attorneys to represent sexual assault victims. These Special Victims' Counsel (SVC) judge advocates have spearheaded an increase in advocacy for victims' rights, especially in the military justice system. SVCs help clients from the decision to make a report, through the investigation, and in the court-martial process. From the program's implementation, SVCs faced challenges from law enforcement and court personnel on issues of standing, privacy interests, and privileges. The first Air Force case led to a successful appeal to the Court of Appeal for the Armed Forces, which allowed victims to be heard through counsel on issues relating to a victim's privacy. The impact of this case and other successes changed perception and policy, giving victims a stronger voice. Successes also led to policy changes that allow victims more choices in participating in the military justice process. The successes of this program led to its expansion to

SESSION DESCRIPTIONS

other military services and future expansion to child-victims. Although this presentation features the military justice system, lessons learned apply to all victims' rights practitioners.

BREAKOUT SESSIONS

2:25 pm – 3:40 pm

VICTIMS' RIGHTS YEAR IN REVIEW

(Classroom 1)

Meg Garvin, J.D.

This session will provide an overview and analysis of the key state and federal victims' rights cases decided over the past 12 months. The presenter will identify emerging trends that attorneys and advocates need to be aware of in order to best advocate for victims.

MILITARY SEXUAL ASSAULT: HOW THE MILITARY INFRASTRUCTURE CAN SIMULTANEOUSLY PROVIDE UNPARALLELED SERVICE TO VICTIMS WHILE ADDING TO THEIR TRAUMA

(Classroom 7)

Capt. Aaron Buzawa, J.D.

Capt. Lauren Rosenblatt, J.D.

The military is currently facing criticism for its prevention and response to sexual assaults. Although the U.S. has seen an up-tick in media and congressional attention to sexual assaults in the military, this is not a new problem. A quick review of the past 30 years shows the military has gone through such scandals approximately every 5-10 years. It is easy to see how the American people could contribute military sexual assault to a lack of concern on the part of military leaders. It is also easy to understand why the American people demand higher standards of military personnel. Military service in this country is highly regarded, and those who serve are often considered a cut above the rest. The American people expect fewer sexual assaults among those who serve, not what seems like a higher incidence rate. Moreover, they expect much less tolerance. This presentation will explain factors unique to the military that contribute to the

apparent sexual assault epidemic. Presenters will explain military command and social structures, justice system, and inherent obstacles facing victims, and discuss pros/cons on resources, reactions, and processes available to victims. The presentation will conclude with proposed improvements for the system.

ADVOCATING FOR CHILD-VICTIMS OF CRIME IN THE 21ST CENTURY

(Classroom 8)

Warren H. Binford, J.D.

This session will provide resources and strategies to advocate successfully for child-victims of crime. We will cover both domestic and international legal resources and highlight some of the gaps and challenges that remain. We will consider the unique legal status and developmental needs of child-victims and share strategies as a group on how to adapt our advocacy to children in crisis, focusing on their full restoration and recovery.

CLOSING PLENARY

3:50 pm – Lower Lounge

ADVANCING VICTIMS' RIGHTS

Doug Beloof, J.D.

Paul Cassell, J.D.

Meg Garvin, J.D.

This will be a truly unique closing plenary. Over the two Conference days attendees will vote on the topics they want covered in this closing plenary. Topics can range from litigating victim privacy to securing full restitution to fighting for a constitutional amendment. Panelists will be given these topics shortly before the session and asked to discuss the law, best practice, and their vision of the year ahead regarding that topic. Audience members will be asked to participate.

END OF CONFERENCE

4:30 pm

SEE YOU NEXT YEAR!

FACULTY BIOGRAPHIES

PLENARY FACULTY

Doug Beloof, J.D., Professor of Law, Lewis & Clark Law School, and NCVLI Board Member

Professor Beloof began his law career clerking for Justice Thomas H. Tongue of the Oregon Supreme Court. He has been a prosecutor and a criminal defense attorney as well as practicing tort law as a plaintiff's and defense attorney. As director of the Multnomah County Victims' Assistance Program, he worked on establishing procedures to assist victims of crime, including a domestic violence program and multidisciplinary teams to deal with child abuse. He lectures nationally and internationally on victim law. Professor Beloof has published the case book *Victims in Criminal Procedure*, which won a national award for writing in victimology and the law. He has published numerous articles about civil liberties for crime victims, and also the book *Victims' Rights: A Documentary and Reference Guide*. Professor Beloof has received awards from The United States Attorney General, Mothers Against Drunk Driving, and the National Organization of Victims Assistance. He has testified in front of Congressional judiciary committees and has been cited by the Senate Judiciary Committee as a leading expert on victim law. Professor Beloof is the Secretary of the National Crime Victim Law Institute Board of Directors. He argues important victim issues in appellate courts.

Paul Cassell, J.D., Professor of Law, S.J. Quinney College of Law at the University of Utah

Paul Cassell is the Ronald N. Boyce Presidential Professor of Criminal Law at the S.J. Quinney College of Law at the University of Utah. Professor Cassell received a B.A. from Stanford University in 1981. He then graduated Order of the Coif from Stanford Law School in 1984, serving as President of the Stanford Law Review. In 1984-85, he clerked for then-Judge Antonin Scalia when Scalia was on the U.S. Court of Appeals for the D.C. Circuit and the following year for Chief Justice Warren E. Burger on the United States Supreme Court. From 1986 to 1988, Professor Cassell served as an Associate Deputy Attorney General in the U.S. Department of Justice. From 1988 to 1991, he served as an Assistant U.S. Attorney in the Eastern District of Virginia, prosecuting many felony criminal cases. In 1992, Professor Cassell began teaching at the S.J. Quinney College of Law, publishing widely in leading academic journals on crime victims' and other criminal justice issues. He has filed briefs and orally argued on behalf of crime victims and allied organizations in the United States Supreme Court and other federal and state courts around the country. In 2002, Professor Cassell was confirmed by the U.S. Senate to serve as a U.S. District Court Judge for the District of Utah, a position he held until resigning in 2007 to return to law teaching. While on the District Court, Professor Cassell wrote many opinions that attracted significant attention, including several on crime victims' rights issues. Professor Cassell currently teaches crime victims' rights, criminal law, and other courses at the College of Law at the University of Utah. Along with Doug Beloof and Steve Twist, he is a co-author of *Victims in Criminal Procedure*, the only law school casebook on victims' rights. He also represents crime victims and crime victims' organizations on a pro bono basis in cases around the country. In 2014, Professor Cassell argued for a crime victim before the United States Supreme Court in *Paroline v. United States and Amy*. The case involved the question of how restitution for victims of child pornography crimes should be awarded. This was the first time that a crime victim had appeared before the United States Supreme Court to protect her own rights in a criminal case filed by a prosecutor.

Capt. Seth Dilworth, J.D., Special Victims' Counsel, United States Air Force

Captain Seth W. Dilworth is a Special Victims' Counsel with the Air Force Legal Operations Agency, Community Legal Services Division—Victims (AFLOA/CLSV), currently assigned to Cannon Air Force Base, New Mexico. In this capacity, Capt Dilworth provides independent legal representation to and advocacy on behalf of sexual assault victims during the investigation and prosecution process. Prior to his current assignment, Capt Dilworth served as an Assistant Staff Judge Advocate and prosecutor at Cannon AFB,

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New Mexico and Scott AFB, Illinois. He has previously deployed to Bagram Air Base, Afghanistan, in support of Operation Enduring Freedom. Capt Dilworth attended Brigham Young University and received his law degree from Arizona State University in May 2009. He is admitted to practice law before the Supreme Court of Arizona, the Air Force Court of Criminal Appeals, and the United States Court of Criminal Appeals for the Armed Forces.

Flavia Fleischer, Ph.D., Chair, Deaf Studies Department, California State University, Northridge

Dr. Flavia Fleischer is currently the Chair of the Deaf Studies Department at California State University, Northridge. Prior to becoming the chair, she taught at Gallaudet University from 2003-2006 and Utah Valley University from 2007-2011. Dr. Fleischer was born to the field of Deaf Studies as her father was one of the pioneering academicians in the field. Deaf Studies has been a central theme in her life, where Deaf education, Deaf Studies issues, and Deaf activism were constant areas of discussion. In her childhood, most of her focus was on understanding herself as a Deaf person and the role of Deaf people in our world. Although her academic background centers on linguistics, Dr. Fleischer is an activist and is very interested in fighting against oppression of all minorities, especially oppression of Deaf people. She has given numerous workshops and presentations relating to ASL, ASL Linguistics, Deaf Education, and Deaf Cultural Studies.

Meg Garvin, MA, J.D., Executive Director, National Crime Victim Law Institute

Meg Garvin is the Executive Director of NCVLI and a clinical professor of law at Lewis & Clark Law School. Ms. Garvin is recognized as a leading expert on victims' rights. She has testified before Congress and the Oregon Legislature on the current state of victim law. She serves on the Legislative & Public Policy Committee of the Oregon Attorney General's Sexual Assault Task Force, the Oregon Attorney General's Crime Victims' Rights Task Force, and is a Board member of the Citizens' Crime Commission. She previously served as co-chair of the American Bar Association's Criminal Justice Section Victims Committee, and as a member of the board of directors for the National Organization of Victim Assistance. She is the recipient of 2012 Crime Victims First-Stewart Family Outstanding Community Service Award. Prior to joining NCVLI, Ms. Garvin practiced law in Minneapolis, Minnesota and clerked for the Eighth Circuit Court of Appeals. She received her B.A. from the University of Puget Sound, her M.A. in communication studies from the University of Iowa, and her J.D. from the University of Minnesota. Ms. Garvin joined NCVLI in February 2003.

Douglas G. Houser, J.D., Senior Partner, Bullivant Houser Bailey PC and NCVLI Board Member

Douglas G. Houser is a Senior Counsel at Bullivant Houser Bailey PC. Mr. Houser graduated from Willamette University (B.A., 1957) and Stanford University College of Law (J.D., 1960). He is a Fellow of the American College of Trial Lawyers, a Fellow of the International Academy of Trial Lawyers, a former member of the Rand Institute Board, and has served on the Board of Directors at Nike, Inc. since its creation. Mr. Houser joined the NCVLI Board in 2008.

James Marsh, J.D., Attorney, Marsh Law Firm

A graduate of the University of Michigan Law School and its acclaimed Child Advocacy Law Clinic, James R. Marsh represents victims of sex abuse in schools, colleges, churches, and government and military institutions; online sexual exploitation; child pornography; sextortion and revenge porn. His case on compensation for victims of child pornography and child sex abuse in federal criminal restitution proceedings was recently heard by the United States Supreme Court. Mr. Marsh is an experienced trial attorney and frequent commentator, lecturer, and author on legal issues affecting children. He founded the nationally recognized Children's Law Center in Washington, DC and currently serves as co-chair of its

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emeritus board. He now leads the Marsh Law Firm in New York, which is recognized worldwide for its work helping sexually abused victims obtain justice and rebuild their lives with dignity and respect.

Hon. Amanda Marshall, J.D., United States Attorney, District of Oregon

Amanda Marshall is the United States Attorney for the District of Oregon. Nominated by President Barack Obama in November of 2010, Ms. Marshall was confirmed by the U.S. Senate in September of 2011. As the chief federal law enforcement officer in Oregon, she oversees the prosecution of all federal crimes and civil matters on behalf of the United States. Amanda serves as the Vice Chair of the Attorney General's Native American Issues Subcommittee and is the Co-Chair of the Federal Working Group on Native American/Alaska Native Children Exposed to Violence. In addition, she serves on the Attorney General's Terrorism/National Security Subcommittee, as well as the Working Groups on Child Exploitation and Medical Marijuana. Prior to her appointment as United States Attorney, she worked for the Oregon Department of Justice for approximately 10 years as an Assistant Attorney General and Attorney in Charge of the Child Advocacy Section, representing the Department of Human Services/Child Welfare. Also, she worked as a Deputy District Attorney in Coos County for five years, prosecuting a variety of cases – from property crimes to murder – and overseeing the Domestic Violence Prosecution Unit.

BREAKOUT SESSION FACULTY

Valenda Applegarth, J.D., Senior Attorney, Greater Boston Legal Services

Valenda Applegarth is a Senior Staff Attorney at Greater Boston Legal Services in Boston, Massachusetts, and founder of the nation's first Relocation Counseling Project. This model project, created in 1999, transformed victim services surrounding victim relocation and was a 2006 recipient of The Mary Byron Foundation "Celebrating Solutions Award" for innovative programming. In 2008, the original project was expanded to the current Relocation Counseling and Identity Protection Initiative, an OVW funded national technical assistance project in partnership with the NNEDV Fund. Ms. Applegarth has represented victims of sexual and domestic violence and stalking for more than 20 years. She has trained extensively on victim relocation, privacy, child custody jurisdiction and other related legal issues throughout the U.S. for the past 10 years. She is a graduate of Thomas M. Cooley School of Law and the University of Michigan.

Doug Beloof, J.D., Professor of Law, Lewis & Clark Law School, and NCVLI Board Member

Professor Beloof began his law career clerking for Justice Thomas H. Tongue of the Oregon Supreme Court. He has been a prosecutor and a criminal defense attorney as well as practicing tort law as a plaintiff's and defense attorney. As director of the Multnomah County Victims' Assistance Program, he worked on establishing procedures to assist victims of crime, including a domestic violence program and multidisciplinary teams to deal with child abuse. He lectures nationally and internationally on victim law. Professor Beloof has published the case book *Victims in Criminal Procedure*, which won a national award for writing in victimology and the law. He has published numerous articles about civil liberties for crime victims, and also the book *Victims' Rights: A Documentary and Reference Guide*. Professor Beloof has received awards from The United States Attorney General, Mothers Against Drunk Driving, and the National Organization of Victims Assistance. He has testified in front of Congressional judiciary committees and has been cited by the Senate Judiciary Committee as a leading expert on victim law. Professor Beloof is the Secretary of the National Crime Victim Law Institute Board of Directors. He argues important victim issues in appellate courts.

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Warren H. Binford, J.D., Associate Professor of Law & Director, Clinical Law Program Willamette University College of Law

Warren Binford is an Associate Professor of Law and Director of the Clinical Law Program at Willamette University College of Law where she teaches the Child and Family Advocacy Clinic and International Children's Rights. She holds a B.A., summa cum laude with distinction, and an Ed.M. in Early Childhood from Boston University and a J.D. from Harvard Law School. Professor Binford has been working with children caught up in America's legal system since 1998.

Meghan Bishop, J.D., Attorney

Meghan S. Bishop has been zealously representing children, parents and third-parties in dependency and delinquency cases throughout Oregon for the last five years. Her clients are often victims of abuse or neglect, sometimes in cases with significant media coverage. With her knowledge of the dependency system, she works to ensure that her clients' wishes are presented to the court, and that their rights are protected. Ms. Bishop manages juvivi.com, a resource for juvenile practitioners in Oregon. She is the secretary and website sub-committee chair for the Oregon State Bar Juvenile Law Excellence Committee and is also on the Juvenile Law Committee for the Oregon Criminal Defense Lawyers Associate. In addition to her work in the legal community, she volunteers with Big Brothers, Big Sisters. She lives in Portland, Oregon with her golden retriever, Hayley.

Jennifer Brobst, J.D., LL.M., Legal Director, Center for Child and Family Health

Jennifer Brobst, J.D., LL.M. is the Legal Director at the Center for Child and Family Health and a clinical professor at North Carolina Central University School of Law (NCCU). She teaches Evidence, Scientific Evidence, Professional Responsibility, and Domestic Violence Law. She formerly served as a Child Forensic Interviewer and ADA in Indiana, and as the Training Coordinator for the NC Coalition Against Sexual Assault, and the Supervising Attorney for the NCCU Domestic Violence Clinic. Professor Brobst is licensed to practice law in California, Indiana, and North Carolina, and before the United States Supreme Court. In August 2014, she will begin a new position as an Assistant Professor and Director of the Center for Health Law and Policy at Southern Illinois University at Carbondale.

Thomas Bruner, J.D., Assistant Utah Attorney General, Utah Attorney General's Office

Thomas Bruner has been an attorney since 1986. He went to work for the Criminal Appeals Division in the Utah Attorney General's Office in 1993. Since 1999, he has supervised all cases in the state post-conviction and federal habeas corpus review processes. Mr. Bruner is lead counsel in all Utah death-penalty cases in during their review processes.

Russell P. Butler, J.D., Executive Director, Maryland Crime Victims' Resource Center, Inc.

Russell P. Butler is an attorney who serves as Executive Director of the Maryland Crime Victims' Resource Center, Inc. (MCVRC). MCVRC is a victim services and legal services provider that provides assistance to victims of all types of crime. Mr. Butler has litigated for crime victims in the Maryland, the District of Columbia, U.S. District Courts and various Circuits of the United States Court of Appeals. He serves as an Adjunct Professor at the University of Baltimore Law School teaching, "The Rights of Crime Victims". Mr. Butler has served on a number of Maryland criminal justice advisory committees, as Co-Chair of the ABA Criminal Justice Section's Victim Committee from 2006-2010, and is currently Chair of the Victim Advisory Group in the United States Sentencing Commission.

Capt. Aaron D. Buzawa, J.D., Special Victims' Counsel, United States Air Force

Captain Aaron D. Buzawa is a Special Victims' Counsel with the Air Force Legal Operations Agency, Community Legal Services Division – Victims (AFLOA/CLSV), currently assigned to Keesler Air Force Base,

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Mississippi. In this capacity, Capt Buzawa provides independent legal representation to and advocacy on behalf of sexual assault survivors during in a six-state region. Capt Buzawa has served as an Assistant Staff Judge Advocate and prosecutor at Keesler AFB, MS and Hanscom AFB, MA. Prior to joining the United States Air Force, he served as an Attorney Advisor for the Department of Justice, Executive Office for Immigration Review. He is published in the areas of domestic violence and international terrorism law.

Terry L. Campos, J.D., National Crime Victim Law Institute

At NCVLI, Ms. Campos researches victims' rights laws and policies across the United States, provides technical legal assistance to attorneys and advocates nationwide, and presents online and in-person trainings and webinars on a variety of victims' rights topics. Prior to joining NCVLI, Ms. Campos was an appellate attorney with the Office of the State Appellate Defender in Chicago, Illinois. During her time at OSAD, Ms. Campos represented indigent persons on appeal in criminal cases. Ms. Campos interned for the Metropolitan Public Defender in Portland, Oregon. Ms. Campos has a B.S. in Wildlife Ecology from the University of Florida and a J.D. from the Northwestern School of Law of Lewis & Clark College with a certificate in Criminal law. Ms. Campos joined NCVLI in May 2008.

Nikki Charles, MA, Director of Therapeutic and Advocacy Services, Network for Victim Recovery of DC

Nikki Charles is the Director of Therapeutic and Advocacy Services at Network for Victim Recovery of DC (NVRDC). In this capacity, she oversees counseling and case management for victims of all crime types, including a 24 hour on-call sexual assault crisis response team. She is a master's level trained grief counselor, a victim compensation specialist, and a former member of the Maryland Anti-Human Trafficking Task force.

John Clune, J.D., Of Counsel, Hutchinson, Black and Cook, LLC

John Clune is a private attorney in the Title IX litigation group at Hutchinson Black and Cook, LLC in Boulder, Colorado. In recent years, he has focused a substantial amount of his practice on representation of students and families on campus rape/Title IX matters. Mr. Clune started his career as a criminal prosecutor in the mountains of Colorado and served as Chief Deputy District Attorney for Eagle County. In 2007, he started the Boulder law firm of Victim Justice, PC, developing a national practice representing victims of sexual assault and other violent crimes in a variety of litigation. In 2009, he co-founded the Rocky Mountain Victim Law Center, a pro-bono non-profit organization dedicated to the enforcement of the rights of crime victims. Mr. Clune has handled campus rape cases involving students at a number of schools including Wake Forest, Yale, Pacific, the University of Colorado, Denver University, Tulsa University, Stanford, Harvard, and Florida State University. He serves on the advisory board of the Association of Title IX Administrators and is a frequent speaker and commentator on Title IX matters.

Shelbi Day, J.D., Attorney

Shelbi Day has devoted her career to civil rights work, and has had the privilege of working on several precedent setting cases on a diverse range of issues. Since 2007, she has focused her work exclusively on LGBT- and HIV- related issues. Most recently, she was a Staff Attorney in the Western Regional Office of Lambda Legal, the oldest and largest national legal organization committed to achieving full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people and people with HIV. Prior to Lambda Legal, Ms. Day worked as a Staff Attorney at the ACLU of Florida, Southern Regional Office of the National Center for Lesbian Rights, and Southern Legal Counsel. In 2011, she taught "Sexual Orientation and the Law," as an adjunct professor at University of Florida Levin College of Law, and in 2013, she was a guest lecturer in Lewis and Clark Law School's Crime Victim Litigation Clinic on

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the unique hurdles LGBT people face in accessing criminal and civil justice. From 2002-2003, Ms. Day was a law clerk for Hon. Charles R. Wilson of the U.S. Court of Appeals for the Eleventh Circuit. She is a member of the California, Florida and Oregon Bars.

Megan Dorton, J.D., Legal Aid Services of Oregon

Biography forthcoming.

Eryn-Jean Duffy, Student, University of Canberra

Ms. Duffy is completing her second year of a Bachelor of Justice Studies at the University of Canberra, Australia. Her passion to combat organized crime and desire to work undercover in police operations brought her from her home town where she was employed as a Court Registrar in the Magistrates' Court of Victoria, Australia, to Canberra to complete an undergraduate degree. Ms. Duffy will graduate in 2016 with ambitions to join the Australian Federal Police Force as a Federal Agent to pursue her career goals.

Meg Garvin, MA, J.D., Executive Director, National Crime Victim Law Institute

Meg Garvin is the Executive Director of NCVLI and a clinical professor of law at Lewis & Clark Law School. Ms. Garvin is recognized as a leading expert on victims' rights. She has testified before Congress and the Oregon Legislature on the current state of victim law. She serves on the Legislative & Public Policy Committee of the Oregon Attorney General's Sexual Assault Task Force, the Oregon Attorney General's Crime Victims' Rights Task Force, and is a Board member of the Citizens' Crime Commission. She previously served as co-chair of the American Bar Association's Criminal Justice Section Victims Committee, and as a member of the board of directors for the National Organization of Victim Assistance. She is the recipient of 2012 Crime Victims First-Stewart Family Outstanding Community Service Award. Prior to joining NCVLI, Ms. Garvin practiced law in Minneapolis, Minnesota and clerked for the Eighth Circuit Court of Appeals. She received her B.A. from the University of Puget Sound, her M.A. in communication studies from the University of Iowa, and her J.D from the University of Minnesota. Ms. Garvin joined NCVLI in February 2003.

Valerie Gibson, Executive Producer/Co-Producer of *Pursuit of Truth: Adult Survivors of Child Sexual Abuse Seeking Justice*

Valerie Gibson is the founder and CEO of the Vertigo Charitable Foundation, LLC. (VCF). VCF's mission is to transform the legal system's response to cases brought by adult survivors of childhood sex abuse against their perpetrators. She is the executive producer/co-producer of the film *Pursuit of Truth: Adult Survivors of Child Sexual Abuse Seeking Justice*, as well as an advocate and activist on behalf of adult survivors.

Jessica Glynn, J.D., Supervising Staff Attorney, Safe Horizon Anti-Trafficking Program

Jessica Glynn is the Supervising Staff Attorney of the Safe Horizon Anti-Trafficking Program in New York City, one of the first human trafficking programs in the country. She provides comprehensive legal services to survivors of human trafficking involving the Trafficking Victims Protection Reauthorization Act, the Fair Labor Standards Act, and other federal and state laws. In addition, she trains community-based organizations, health-care providers, law enforcement and government officials, and engages in policy advocacy on human trafficking issues. Ms. Glynn is an active participant on multiple anti-trafficking taskforces, including the Bureau of Justice Assistance Anti-Human Trafficking Taskforce, Freedom Network (USA) and New York Anti-Trafficking Network. She is also an NGO observer of the Uniform Law Commission's Committee on the Prevention of and Remedies for Human Trafficking.

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Her past legal experience includes serving as the Director of Law and Policy at Servicios Para el Avance de la Mujer. She is the recipient of the New York Civil Liberties Union Equality Award and the Long Island Progressive Coalition Difference Award. Ms. Glynn received her J.D. from the City University of New York School of Law where she was a Charles H. Revson Public Interest Law Fellow.

Bridgette Harwood, J.D., Director of Legal Services, Network for Victim Recovery of DC

Bridgette Harwood is the Director of Legal Services at NVRDC. Before coming to NVRDC, she served as subject matter expert on the U.S. Department of Justice, Office for Victims of Crime's National Identity Theft Victims Assistance Network, developing training materials and curriculums that she presented to coalitions throughout the country. As a certified police instructor, Ms. Harwood volunteers as a trainer for specialized victimization topics on Trauma and Victims' Rights at entry-level academies and in-service trainings, Sexual Assault and Domestic Violence Awareness, Elder Abuse and Financial Exploitation and Elder Abuse Investigation Practices for Law Enforcement Officers.

Carrie Hull, Detective, Ashland Police Department

Carrie Hull currently works at the Ashland Police Department as a Detective with a special emphasis on child abuse, child sexual abuse and adult sexual assault cases. After joining the detectives division in January of 2010, she worked with department administration to change how the Ashland Police Department investigates sexual assault cases. The department now follows a victim-centered and offender-focused approach that has resulted in a significant increase in the number of sexual assaults reported to law enforcement. Ms. Hull is a forensic interviewer of children, a participating member of the Jackson County Major Assault and Death Investigation Unit (MADIU) as well as the Jackson County Sexual Assault Response Team (JC SART) and the Jackson County Child Abuse Multi-Disciplinary Team. She is an instructor with the Oregon Sexual Assault Training Institute where she teaches best practices in sexual assault investigations to law enforcement officers across the nation; she is also a member of the Legislative and Public Policy Committee for the Oregon Sexual Assault Task Force. She is a certified instructor in Verbal Defense and Influence, Self Defense Tactics for Women and Personal Protection Strategies for Women and Children. Ms. Hull is the founder and administrator of the Southern Oregon Sexual Assault Symposium, the "You Have Options" sexual assault reporting program, ReportingOptions.org, and the "I Will" sexual assault prevention campaign.

Sarah E. Hunt, J.D., Manager of State Issues and Ethics Officer, Stateside Associates

Sarah E. Hunt is Manager of State Issues and Ethics Officer at Stateside Associates, an Arlington, Virginia-based government affairs firm. She advises clients in multiple-state issue campaigns. She also manages the firm's compliance with ethics and campaign finance law. Ms. Hunt formerly had a boutique private practice that blended political law and issue management. As an associate at an Oregon law firm, her clients included two victim rights advocacy organizations. Sarah served as a political organizer and legislative staffer in Maryland, New Mexico and Oregon prior to law school. A dedicated victims' rights advocate, Ms. Hunt regularly provides assistance to victims and their lawyers. She co-authored a sex-offender sentencing reform law, Ballot Measure 73, passed by the people of Oregon in November 2010. She has also worked as a volunteer special assistant deputy district attorney. Ms. Hunt is a graduate of the University of New Mexico, Willamette University and Georgetown University Law Center. Her Georgetown thesis, *Endangered Justice: The Case for Preserving the Rights of Environmental Crime Victims*, was awarded second place in the 2012 NCVLI Law Student Writing Competition. She is a member of the bar in Oregon (inactive) and the District of Columbia. Sarah resides in Washington, D.C.

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Neil Jaffee, J.D., Legal Counsel/Co-Producer of *Pursuit of Truth: Adult Survivors of Child Sexual Abuse Seeking Justice*

Neil Jaffee is Vertigo Charitable Foundation, LLC. (VCF) legal counsel and the co-producer of the film, *Pursuit of Truth: Adult Survivors of Child Sexual Abuse Seeking Justice*. He was primarily responsible for the film's legal research and screen writing. He writes a blog on the VCF website on legal issues relating to adult survivor cases. He is a member of NAVRA and the National Crime Victim Bar Association.

Rebecca Khalil, J.D., National Crime Victim Law Institute

Ms. Khalil is an attorney with NCVLI and directed NCVLI's Safeguarding Child-Victims' Rights Initiative from 2010-2012. At NCVLI, Ms. Khalil researches victims' rights laws and policies across the United States, drafts amicus briefs, provides technical legal assistance to attorneys and advocates nationwide, and creates and presents online and in-person trainings and webinars on a variety of victims' rights topics. Before joining NCVLI, Ms. Khalil was a litigation associate with Baker & Hostetler LLP in New York City, where she worked on a number of complex commercial and business litigations, including trade secret, securities, and contract cases, as well as white collar criminal defense, governmental and quasi-governmental matters, and corporate investigations. During law school, she was an extern with the Criminal Division of the U.S. Attorney's Office in San Jose, California. Ms. Khalil holds a B.A. in History from Seattle University and earned her J.D. from Stanford Law School, where she was elected to the Order of the Coif. Rebecca joined NCVLI in December 2010.

Alexandra Kinsella, Law Student, University of Colorado Law

Ms. Kinsella is a second year law student interested in women's rights, international human rights, and indigenous people's rights. She worked for the Rocky Mountain Victim Legal Center in Denver last summer and was impressed and touched by the amount of dedication, intelligence, and goodness the people there generated each day. Ms. Kinsella wants to continue to be a part of the victim's rights community, especially regarding the rights of women. She believes important policy changes must be made on all levels regarding the human rights of women, and the discussion must begin with the women themselves. She believes the law has the potential, catalytic power to bring about widespread change, and when done in a mindful and encompassing way, this change can positively affect household relations. Education and understanding are at the root of respect, and she believes the future of victim's rights must encompass these ideals.

Sarah LeClair, J.D., National Crime Victim Law Institute

Ms. LeClair is an attorney at NCVLI. She participates in the continued development and implementation of NCVLI's national litigation and education strategies, including providing legal technical support to attorneys and advocates and writing amicus briefs on a wide variety of victim-law related topics. Ms. LeClair also leads NCVLI's legal publications project, with responsibility for managing the content, look, and distribution of NCVLI's legal publications. Before joining NCVLI, Ms. LeClair served as judicial clerk for the Honorable Rick Haselton of the Court of Appeals of the State of Oregon, after which she practiced law as a litigation associate at Miller Nash LLP in Portland, Oregon. During law school Ms. LeClair interned with the U.S. Attorney's Office for the Western District of Virginia and with the United States Department of Justice, Criminal Appellate Section. She has a B.A. in History from the University of Oregon and a J.D. from the University of Virginia School of Law. Ms. LeClair joined NCVLI in January 2009.

Tom Lindfield, Student, University of Canberra

Mr. Lindfield is a third-year Arts / Law student at the University of Canberra, in Canberra Australia. He plans to graduate in 2015 or early 2016 and pursue employment with a government agency. He works as

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a court monitor for a transcription company and has worked at the ACT Law Courts for the past few years. Mr. Lindfield has a passion for law with interests that include Cybercrime, Intellectual Property, Mental Health Law and Criminal Law. Among his loves is his cat Austin.

Amy C. Liu, J.D., National Crime Victim Law Institute

At NCVLI, Ms. Liu has provided legal technical assistance to attorneys and victim advocates on a wide range of crime victims' rights issues; drafted trial and appellate amicus briefs; presented on victims' rights issues at local and national conferences; and conducted practical skills trainings for attorneys across the country. Before joining NCVLI, she worked in student services at the University of Iowa College of Law and also practiced law as a litigation associate in the Los Angeles offices of Skadden, Arps, Slate, Meagher & Flom LLP and Morgan, Lewis & Bockius LLP. Ms. Liu clerked for the Honorable Audrey B. Collins and the Honorable Robert J. Kelleher of the United States District Court, Central District of California. She received her B.A. in Economics/Business and J.D. from the University of California, Los Angeles. Ms. Liu joined NCVLI in November 2010.

Susan Nelson, Law Student, Southern University Law Center

Susan Nelson is a third-year law student at Southern University Law Center (SULC) in Baton Rouge, Louisiana. With a passion for writing good law, Ms. Nelson works as a consultant in legislative drafting and assists organizations with getting legislation passed. She is pursuing SULC's Public Law Certification and expects to graduate with her Juris Doctorate in January 2015. Ms. Nelson's public policy interests include child exploitation, poverty and homelessness, women's issues, and U.S. food policy. Prior to endeavoring to attend law school, Ms. Nelson worked as a journalist, political campaign strategist, congressional staffer, and federal consultant. She resides in Baton Rouge with her husband Danny and their three cats, Ghost, Goblin and Chester.

Caitlin Meers, Student, University of Canberra

Ms. Meers is a third year law student at the University of Canberra, in the Australian Capital Territory of Australia. Ms. Meers works for Snedden Hall & Gallop Lawyers as a paralegal on the superannuation litigation team. She intends to complete her undergraduate law degree in November 2015, and go straight into her Graduate Diploma of Legal Practice. Ms. Meers' passion in cybercrime is the study and prosecution of child exploitation and pornography rings, and she hopes to pursue a career in the Australian Federal Police in their cybercrime department. She resides in Canberra, and when not at work can be found watching her favorite football team, the South Sydney Rabbitohs.

Helen O'Brien, Crime Victims' Rights Program Coordinator, Oregon Department of Justice

Helen O'Brien is the Crime Victims' Rights Program Coordinator for the Oregon Department of Justice. Her responsibilities include guiding and supporting the efforts of the Attorney General's Task Force on Victims' Rights Enforcement, subcommittees, and workgroups. She assists in identifying and eliminating barriers in system practice across the State by collaborating with partners to develop plans that increase program effectiveness. Formerly, Ms. O'Brien was the Director for the Victims Assistance Program (VAP) in the Multnomah County District Attorney's Office in Portland, Oregon where she worked for over 20 years and was responsible for overseeing the day to day operations of the VAP. She has Co-Chaired the Multnomah County Sexual Assault Response Team (SART) and the Oregon Victim of Crime Act (VOCA) Advisory Committee and has actively participated on the Domestic Violence Enhanced Response Team and the Commercially Sexually Exploited Children (CSEC) Steering Committee. Ms. O'Brien continues to serve on the Crime Victims Assistance Network (CVAN) Board.

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Matt Ornstein, J.D., Staff Attorney, Network for Victim Recovery of DC

Matt Ornstein is a staff attorney at Network for Victim Recovery of DC (NVRDC). Before coming to NVRDC, Matt worked as a staff attorney at Maryland Crime Victim's Resource Center, Inc. , where he represented clients related to privacy issues, the right to be present and heard and the right to request timely restitution. He has also served as a law clerk to the Honorable Nancy Davis-Loomis and the Honorable Paul A. Hackner in Anne Arundel County. Mr. Ornstein was the attorney of record in this case study and represented the survivor in asserting her crime victims' rights and addressing the media throughout the criminal trial.

Dave Ponce, Training Manager and Licensed Instructor, Guide Dogs of America

Dave Ponce has been working in the guide dog field at Guide Dogs of America (GDA) for ten years. He is a licensed instructor in the state of California and has been the training department manager for the last two years. Mr. Ponce has always had an interest in dogs and helping people. The guide dog field seemed like the best way to incorporate both of these two passions. He has the opportunity to train and work with GDA's amazing dogs and teach not only their visually impaired clients but help mentor junior staff. After leaving the US Navy after a four year enlistment, Mr. Ponce used his GI educational Bill to obtain his AS degree in radiologic sciences. He worked in the medical field for seven years but felt that he was not making a true contribution to helping people. He then switched his attention to the field of guide dogs and ended up finding GDA. He has enjoyed being provided with the opportunity to work with a variety of great people and dogs of course! Mr. Ponce feels it is very rewarding to make a difference every day.

Capt. Lauren Rosenblatt, J.D., Special Victims' Counsel, United States Air Force

Captain Lauren E. Rosenblatt is a Special Victims' Counsel with the Air Force Legal Operations Agency, Community Legal Services Division – Victims (AFLOA/CLSV), currently assigned to Little Rock Air Force Base, Arkansas. In this capacity, Capt Rosenblatt provides independent legal representation to and advocacy on behalf of sexual assault survivors in a six-state region. Prior to her current assignment, Capt Rosenblatt served as an Assistant Staff Judge Advocate and prosecutor at Little Rock Air Force Base, AR and Wright-Patterson Air Force Base, OH. Capt Rosenblatt attended the University of Alabama at Birmingham where she received her commission as a second lieutenant through Air Force ROTC in May 2006. She graduated from Mississippi College School of Law in May 2009 and entered active duty as an Air Force judge advocate in October 2009 after completing the educational delay program. During law school, Capt Rosenblatt served as an intern assigned to Keesler Air Force Base, Mississippi and was a member of the Law Review. She is admitted to practice law before the Supreme Judicial Court of Mississippi, the United States Court of Criminal Appeals for the Armed Forces and the Air Force Court of Criminal Appeals.

Joshua Safran, J.D., Attorney

Joshua Safran is an attorney and author who was profiled in the award-winning documentary CRIME AFTER CRIME, which premiered at the Sundance Film Festival and had its television debut on The Oprah Winfrey Network. His childhood memoir FREE SPIRIT: GROWING UP ON THE ROAD AND OFF THE GRID (Hyperion/Hachette) is a critically acclaimed account of surviving and overcoming the curse of domestic violence. He is a nationally recognized champion for women's rights and a zealous advocate for survivors of domestic violence and the wrongfully imprisoned. For his work, he has received national media coverage and numerous awards.

FACULTY BIOGRAPHIES

Richard Turner, M.S.W., Orientation and Career Center Director, Oregon Commission for the Blind

Richard Turner has worked at the Oregon Commission for the Blind for eleven years. He is currently the Training Center Director. The Center's focus is providing training to adults who are visually impaired. The training includes: Orientation & Mobility, Cooking, Computer skills, Smart phones, Tablets, braille, "Tasks of Daily Living," and more. After losing his sight when he was twelve years old, Mr. Turner spent a year and a half at the California School for the Blind before returning to public school. After receiving a Bachelor's from Willamette University in Salem, Oregon, he worked for 15 years in the field of Crisis Counseling before going back to get a Masters of Social Work from the University of Washington. He then spent five years providing individual, family and group counseling, before changing careers and going to work for the Oregon Commission for the Blind.

Katrina Watson, J.D., Senior Staff Attorney, Immigration Counseling Service

Katrina Watson is the Senior Staff Attorney at Immigration Counseling Service (ICS), a non-profit immigration law firm in Portland, Oregon. For more than 30 years, ICS has been dedicated to improving the lives of Oregon's immigrant communities through access to affordable immigration legal services and educational forums. At ICS, Ms. Watson assists immigrant victims of human trafficking, domestic violence, and other serious crimes in applying for U and T visas, VAWA self-petitions, special immigrant juvenile status, asylum, permanent residency, and other forms of immigration relief. Prior to joining ICS, Ms. Watson served two years as a Peace Corps Volunteer in Central America. She received her law degree Summa Cum Laude from the University of Miami.

Christopher Wilson, Psy.D.

Dr. Wilson is a licensed psychologist with a private practice in Portland, Oregon. For the last thirteen years, he has worked in the field of domestic violence. For ten years, he led groups for abusive men and worked with female survivors of domestic violence both individually and in groups. He currently provides domestic violence evaluations in civil cases for both attorneys and the Department of Human Services. As part of his practice, Dr. Wilson has provided trainings for both community members and professionals on several topics in the field of domestic violence, including Dynamics of Abusive Men, Sustainable Advocacy, Neurobiology of Trauma, Using Group Process with Abusive Men, and Facilitation Skills for Working with Abusive Men. Dr. Wilson has provided training for both local and national organizations, including Office for Victims of Crime, the Southern Poverty Law Center, End Violence Against Women International, National Crime Victim Law Institute, Oregon Attorney General's Sexual Assault Task Force, and Portland Women's Crisis Line.

ATTENDEE DIRECTORY

Kerry Abramson

Victims Legal Counsel
United States Navy
kerry.abramson@navy.mil
Honolulu, Hawaii

Jessica Alas

Attorney
Lone Star Legal Aid
jalas@lonestarlegal.org
Houston, Texas

Dan Alcantara

Victims' Legal Counsel Officer
United States Marine Corps
dan.alcantara@usmc.mil
San Diego, California

Holly Allen

Deputy District Attorney
holly.allen@co.benton.or.us
Corvallis, Oregon

Garvin Ambrose

State Victim Advocate
State of Conn. Office of the Victim Advocate
garvin.ambrose@ct.gov
Hartford, Connecticut

Kelley Amburgey-Richardson

Advocacy Specialist
WA Coalition of Sexual Assault Programs
kelley@wcsap.org
Olympia, Washington

Terrence (Mike) Andrews

Managing Attorney
D.C. Crime Victims' Resource Center
tmichael.andrews@hotmail.com
Washington, D.C.

Michael Ankrum

Victims Legal Counsel
United States Marine Corps
ankrum@pa.net
Camp Lejeune, North Carolina

Valenda Applegarth

Senior Attorney
Greater Boston Legal Services
vapplegarth@gbls.org
Boston, Massachusetts

James Askew

Student
CISabroad
rcapuano@cisabroad.com
Northampton, Massachusetts

Patrick Askew

Student
CISabroad
rcapuano@cisabroad.com
Northampton, Massachusetts

Daria Awusah

Assistant Staff Judge Advocate
United States Air Force
daria.awusah.1@us.af.mil
Sheppard Air Force Base, Texas

Gerri Badden

Victim Witness Coordinator
United States Attorney's Office
gerri.badden@usdoj.gov
Portland, Oregon

Erin Bad Hand Kerr

Legal Advocate
NM Coalition of Sexual Assault Programs, Inc.
ebhk.communityjusticeproject@gmail.com
Albuquerque, New Mexico

Caroline Bartlett

Development Coordinator
Oregon Coalition Against Domestic and Sexual
Violence
develpmentdirector@ocadsv.org
Portland, Oregon

*Member of the NCVLI Board of Directors

ATTENDEE DIRECTORY

Dina Bartlett

Legal Consultant
Mary Byron Project
dinabartlett@marybyronproject.org
Louisville, Kentucky

Scott Bass

Executive Director
Murder Victims' Families for Reconciliation
sbass@mvfr.org
Raleigh, North Carolina

Raina Bayas

Project Director
Rocky Mountain Victim Law Center
raina@rmvictimlaw.org
Denver, Colorado

Douglas Beloof*

Professor of Law
Lewis & Clark Law School
Beloof@lclark.edu
Portland Oregon

Cody Benson

Executive Director
WA Coalition of Crime Victim Advocates
cody@wccva.org
Olympia, Washington

Barbara Billstine

Coordinator
Tillamook County District Attorney's Victims
Advocacy Program
bbillsti@co.tillamook.or.us
Tillamook, Oregon

Meghan Bishop

Attorney at Law
meghan@nlegalgroup.com
Beaverton, Oregon

Katelyn Bonn

Masters of Criminology and Criminal Justice
Student
Portland State University
kbonn@pdx.edu
Portland, Oregon

Rosemary Brewer

Legal Director
Oregon Crime Victims Law Center
rosemary@ocvlc.org
Portland, Oregon

Jennifer Brobst

Attorney
North Carolina Central University School of Law
jbrobst@nccu.edu
Durham, North Carolina

Thomas Brunker

Assistant Attorney General
Utah Attorney General's Office
tbrunker@utah.gov
Salt Lake City, Utah

Russell Butler

Executive Director
Maryland Crime Victims' Resource Center, Inc.
rbutler@mdcrimevictims.org
Upper Marlboro, Maryland

Aaron Buzawa

Special Victims' Counsel
United States Air Force
aaron.buzawa.1@us.af.mil
Biloxi, Mississippi

Kristen Byers

Special Victims' Counsel
United States Coast Guard
kristen.m.byers@uscg.mil
Washington, D.C.

*Member of the NCVLI Board of Directors

ATTENDEE DIRECTORY

Kathleen Cady

Special Assistant
Los Angeles County District Attorney's Office
kcady@da.lacounty.gov
El Monte, California

Suzan Campbell

Attorney & Public Policy Director
Wyoming Coalition Against Domestic Violence
and Sexual Assault
scampbell@wyomingdvsa.org
Laramie, Wyoming

Terry Campos

Staff
National Crime Victim Law Institute
tcampos@lclark.edu
Portland, Oregon

Paul Cassell

Professor of Law
S.J. Quinney College of Law, Univ. of Utah
Cassellp@law.utah.edu
Salt Lake City, Utah

Nikki Charles

Co-Executive Director
Network for Victim Recovery of DC
nikki@nvrdc.org
Washington, D.C.

Scott Charlston

Public Relations Manager
Verizon Foundation
scott.charlston@vzw.com
Bellevue, Washington

Jamie Chevez

Program Manager/PIO
Wyoming Office of the Attorney General
jamie.chavez@wyo.gov
Cheyenne, Wyoming

James Clark

Executive Director
Victims' Rights Center of Connecticut
jclark@victimrightscenterct.org
New Haven, Connecticut

Colleen Clase

Attorney
Arizona Voice for Crime Victims
cclase@voiceforvictims.org
Tempe, Arizona

Richard Cloninger

Regional Victims' Legal Counsel
United States Marine Corps
richard.cloninger@usmc.mil
Camp Lejeune, North Carolina

Marcelle Clowes

Member Engagement Coordinator
Murder Victims' Families for Reconciliation
mclowes@mvfr.org
Raleigh, North Carolina

John Clune

Attorney
Hutchinson, Black and Cook
clune@hbcboulder.com
Boulder, Colorado

Haleh Cochran

Legal Advocate/ SANE&SART Coordinator
The Turning Point Rape Crisis Center
hcochran@theturningpoint.org
Plano, Texas

Anne-Berit Condit

Victim Advocate
Mothers Against Drunk Driving
abcondit@aol.com
Redding, California

Sarah Corbett

Student
CISabroad
rcapuano@cisabroad.com
Northampton, Massachusetts

*Member of the NCVLI Board of Directors

ATTENDEE DIRECTORY

Levicy Crawford

Assistant Judge Advocate
United States Air Force
levicy.crawford.1@us.af.mil
U.S. Air Force Academy, Colorado

Matthew Dale

Director
Office of Victim Services, Montana Department
of Justice
madale@mt.gov
Helena, Montana

Cristina Damiani

Administrative Director/Victim Advocate
Oregon Crime Victims Law Center
cristina@ocvlc.org
Portland, Oregon

Helene Davis*

President of the Board
National Crime Victim Law Institute
helenedavis48@gmail.com
Portland, Oregon

Lisa Davis

Advocacy Program manager
Domestic Violence Resource Center
lisad@dvrc-or.org
Hillsboro, Oregon

Sara De Groot

Attorney
United States Navy
degroot@usna.edu
Annapolis, Maryland

Hon. Paul De Muniz*

Distinguished Jurist in Residence
Willamette University College of Law
pdemuniz@willamette.edu
Portland, Oregon

Michael De Wever

Student
CISabroad
rcapuano@cisabroad.com
Northampton, Massachusetts

Leigh Dickey

Attorney
Alaska Legal Services Corp
ldickey@alsc-law.org
Juneau, Alaska

Seth Dilworth

Special Victims' Counsel
United States Air Force
sdilworth@gmail.com
Clovis, New Mexico

Megan Dorton

Staff Attorney
Legal Aid Services of Oregon
megan.dorton@lasoregon.org
Portland, Oregon

Caitlin Egeck

Law Student
Lewis & Clark Law School
caitlinegeck@lclark.edu
Snohomish, Washington

Randy Ellison

Owner
Boys Don't Tell: Ending the Silence of Abuse
randy@boysdonttell.com
Portland, Oregon

Mariam El-Menshawi

Director
Victims' of Crime Resource Center
melmenshawi@pacific.edu
Sacramento, California

*Member of the NCVLI Board of Directors

ATTENDEE DIRECTORY

Duffy Eryn-Jean

Student
CISabroad
rcapuano@cisabroad.com
Northampton, Massachusetts

Joshua Favaloro

Student
CISabroad
rcapuano@cisabroad.com
Northampton, Massachusetts

Karen Fischer-Anderson

Chief of Staff, Navy Victims' Legal Counsel
United States Navy
karen.fischeranderson@navy.mil
Ponte Vedra Beach, Florida

Flavia Fleischer

Department Chair & Associate Professor
California State University, Northridge
flavia.fleischer@csun.edu
Northridge, California

Scott Flor

Staff Accountant
National Crime Victim Law Institute
sflor@lclark.edu
Portland, Oregon

Daryl Fox

Content Specialist
Office for Victims of Crime
daryl.r.fox@lmco.com
Gaithersburg, Maryland

Alan Galloway

Attorney
Davis Wright Tremaine, LLP
alangalloway@dwt.com
Portland, Oregon

Meg Garvin

Executive Director
National Crime Victim Law Institute
garvin@lclark.edu
Portland, Oregon

Jonathan Gates

Social Media and Events Coordinator
Oregon Coalition Against Domestic and Sexual
Violence
jonathan@ocadsv.org
Portland, Oregon

Valerie Gibson

Executive Producer/Co-Producer
Vertigo Charitable Foundation, LLC
gibsondpt@gmail.com
Fairfax, Virginia

John Gillis*

Chief, Victim Services Division
Maricopa County Attorney's Office
gillisj@mcao.maricopa.gov
Phoenix, Arizona

Jessica Glynn

Supervising Attorney
Safe Horizon Anti-Trafficking Program
jessica.glynn@safehorizon.org
Brooklyn, New York

Sarah Gustafson*

Executive Assistant
Richard and Janet Geary Foundation
sarah@gearyoffices.com
Portland, Oregon

Kevin Hakala

Defense Counsel
United States Air Force
kevin.hakala.1@us.af.mil
Joint Base Lewis-McChord, Washington

Bridgette Harwood

Co-Executive Director
Network for Victim Recovery of DC
bridgette@nvrdc.org
Washington, D.C.

*Member of the NCVLI Board of Directors

ATTENDEE DIRECTORY

Pam Heimuller

Victim Witness Coordinator
United States Attorney's Office
pam.heimuller@usdoj.gov
Portland, Oregon

Chantell Higgins

Special Victims' Counsel
United States Marine Corps
chantell.higgins@usmc.mil
San Diego, California

Rachelle Hill

Victim Services Coordinator
West Valley City
rachelle.hill@wvc-ut.gov
West Valley City, Utah

Kristina Holm

Attorney
Perkins Coie LLP
kjholm@perkinscoie.com
Portland, Oregon

Melissa Holtzlander

Special Victims' Paralegal
United States Air Force
gsholt1@yahoo.com
Andrews AFB Maryland

Douglas G. Houser*

Senior Counsel
Bullivant Houser Bailey PC
doug.houser@bullivant.com
Portland, Oregon

Carrie Hull

Detective
Ashland Police Department
carrie.hull@ashland.or.us
Ashland, Oregon

Sarah Hunt

Manager, State Issues & Ethics Officer
Stateside Associates
sarah@sarahhunt.com
Arlington, Virginia

Sasha Hutchings

Executive Director
Rocky Mountain Victim Law Center
sasha@rmvictimlaw.org
Denver, Colorado

William Ivins, III

Regional Victims' Legal Counsel-West OIC
United States Marine Corps
william.ivins@usmc.mil
Camp Pendleton, California

Neil Jaffee

Legal Counsel/Co-Producer
Vertigo Charitable Foundation, LLC
thejustice101@gmail.com
Fairfax, Virginia

Peter Janci

Partner
O'Donnell Clark & Crew LLP
peterj@oandc.com
Portland, Oregon

Maribel Jarzabek

Special Victims' Counsel
United States Air Force
maribel.jarzabek@us.af.mil
Joint Base Andrews, Maryland

Elizabeth Johnson

Law Student
Arizona Summit Law School
emjohnson@student.azsummitlaw.edu
Phoenix, Arizona

Suzanne Johnson

Analyst/Researcher
Canadian Office of the Federal Ombudsman for
Victims of Crime
suzanne.johnson@ombudsman.gc.ca
Ottawa, Ontario

*Member of the NCVLI Board of Directors

ATTENDEE DIRECTORY

Aaron Joyce

Investigator
Crime Victim Compensation Commission
aaron.s.joyce@hawaii.gov
Honolulu, Hawaii

Eliza Kang

Victim Witness Specialist
United States Attorney's Office
eliza.kang@usdoj.gov
Portland, Oregon

Melanie Kebler

Staff Attorney
Oregon Crime Victims Law Center
melanie@ocvlc.org
Portland, Oregon

James Kendall

Military Paralegal
United States Air Force
james.kendall@us.af.mil
Fairchild Air Force Base, Washington

Rebecca Khalil

Attorney
National Crime Victim Law Institute
rebeccak@lclark.edu
Portland, Oregon

Courtney Kiehl

Law Student
Pennsylvania State University, The Dickinson
School of Law
Cxk460@dsl.psu.edu
La Quinta, California

Aaron Kirk

Special Victims' Counsel
aaron.kirk.2@us.af.mil
United States Air Force
San Antonio, Texas

Ann Kim

Attorney
Legal Aid Foundation of Los Angeles
akim@lafila.org
Los Angeles, California

Sherry King

Branch Chief for Victim Services Subcommittee
United States Navy
sherry.j.king2.mil@mail.mil
Arlington, Virginia

Alex Kinsella

Law Student
University of Colorado Law School
alexkinsella5@gmail.com
Boulder, Colorado

Dustin Kouba Standard

Special Victims' Counsel
United States Air Force
dustin.b.kouba.mil@mail.mil
Joint Base Andrews, Maryland

Heather Koval

Victim Services
Irving Police Department
hkoval@cityofirving.org
Irving, Texas

Lisa Kreeger-Norman

Associate Chief, Special Victims' Counsel
United States Air Force
lisa.r.kreeger-norman.civ@mail.mil
Joint Base Andrews, Maryland

Amie Krieger

Victim Assistance Specialist
Washington County District Attorney's Office
amie_krieger@co.washington.or.us
Hillsboro, Oregon

Elisa Kuhl

Supervising Victim Advocate
SV Faces
ekuhl@svfaces.org
San Jose, California

*Member of the NCVLI Board of Directors

ATTENDEE DIRECTORY

Jen Kutney

Domestic Violence Social Worker
State of Delaware Department of Justice
jen.kutney@state.de.us
Wilmington, Delaware

Patricia La Sesne

Victim Justice Program Manager
Neighborhood Christian Legal Clinic
plesesne@nclegalclinic.org
Indianapolis, Indiana

Merit Lajoie

Complaint Officer
State of Conn. Office of the Victim Advocate
merit.lajoie@ct.gov
Hartford, Connecticut

Julie Landrum

Development Associate
National Crime Victim Law Institute
julielandrum@lclark.edu
Portland, Oregon

Andrew Lauersdorf

Partner
Maloney Lauersdorf Reiner PC
acl@coveragelit.com
Portland, Oregon

Sarah LeClair

Attorney
National Crime Victim Law Institute
saleclair@lclark.edu
Portland, Oregon

Melody Lenhardt

Victim Advocate
Maricopa County Attorney's Office
lentzm@mcao.maricopa.gov
Phoenix, Arizona

Thomas Lindfield

Student
CISabroad
rcapuano@cisabroad.com
Northampton, Massachusetts

Patricia Liss

Trainer
Alaska State Troopers
patricia.liss@alaska.gov
Anchorage, Alaska

Amy Liu

Attorney
National Crime Victim Law Institute
aliu@lclark.edu
Portland, Oregon

Sonia Lopez

Directing Attorney
Lone Star Legal Aid
slopez@lonestarlegal.org
Conroe, Texas

Alexander Lowry

Attorney
United States Air Force
servethecall@yahoo.com
Maxwell Air Force Base, Alabama

Jonathon MacLennan

Student
CISabroad
rcapuano@cisabroad.com
Northampton, Massachusetts

James Marsh

Attorney
Marsh Law Firm
jamesmarsh@marshlaw.us
New York, New York

Hon. Amanda Marshall

United States Attorney
United States Attorney's Office Oregon
amanda.marshall@usdoj.gov
Portland, Oregon

Mike Maryanov

Victims' Response Section Manager
Oregon Department of Justice
mike.v.maryanov@doj.state.or.us
Salem, Oregon

*Member of the NCVLI Board of Directors

ATTENDEE DIRECTORY

Brandy Matteson

Gillette Police Department
brandym@gillettewy.gov
Gillette, Wyoming

Kendra Maudlin

Paralegal
United States Air Force
kendra.maudlin@us.af.mil
Schriever Air Force Base, Colorado

Heather McDowell

MSW Student
Portland State University
hmcadow2@pdx.edu
Portland, OR

Caitlin Meers

Student
CISabroad
rcapuano@cisabroad.com
Northampton, Massachusetts

Renzo Mejia

Project Manager
Metropolitan Family Services/Legal Aid Society
mejia@metrofamily.org
Chicago, Illinois

Kate Meyers

Deputy Prosecutor
King County Prosecuting Attorney's Office
kathryn.meyers@kingcounty.gov
Seattle, Washington

Elizabeth Morrison

Volunteer
National Crime Victim Law Institute
e_morrison_9@yahoo.com
Vancouver, Washington

Diane Moyer*

Legal Director
Pennsylvania Coalition Against Rape
dmoyer@pcar.org
Enola, Pennsylvania

Alexandra Mueller

Victim Advocate/Community Educator
Family Support Center, a program of Rural
Resource
amueller@ruralresources.org
Colville, Washington

Bradley Mumford

Special Victims' Counsel
United States Air Force
mumfordb@gmail.com
APO, California

Amy Murakami

Investigator
Crime Victim Compensation Commission
amy.m.murakami@hawaii.gov
Honolulu, Hawaii

Kristina Neal

Assistant Director
United States Department of Justice, Executive
Office for United States Attorneys
kristina.neal@usdoj.gov
Washington, D.C.

Susan Nelson

Law Student
Southern University Law Center
susannelson@gmail.com
Baton Rouge, Louisiana

Helen O'Brien

Crime Victims' Rights Coordinator
Oregon Department of Justice
helen.orien@doj.state.or.us
Salem, Oregon

Lucy Oh

Social Worker
Legal Aid Foundation of Los Angeles
loh@lafla.org
Los Angeles, California

*Member of the NCVLI Board of Directors

ATTENDEE DIRECTORY

Tiffany O'Hearn

Victim Assistance Specialist
Washington County District Attorney's Office
tiffany_o'hearn@co.washington.or.us
Hillsboro, Oregon

Erin Olson

Attorney
Law Office of Erin Olson, P.C.
eolson@erinolsonlaw.com
Portland, Oregon

Meaghan O'Neill

Attorney
Sexual Assault Legal Institute
moneill@mcasa.org
Silver Spring, Maryland

Becky O'Neil McBrayer

Program Manager
St. Andre Besette Catholic Parish
beckymcbrayer@yahoo.com
Portland, Oregon

Ellen O'Neill-Stephens

Founder
Courthouse Dogs Foundation
ellen@courthousedogs.org
Bellevue, Washington

Matthew Ornstein

Attorney
Network for Victim Recovery of DC
matt@nvrdc.org
Washington, D.C.

Jessica Pedrosa

Legal Assistant
The Law Office of Josh Lamborn, P.C.
jslpedrosa@gmail.com
Portland, Oregon

Kate Phillips

Student
CISabroad
rcapuano@cisabroad.com
Northampton, Massachusetts

David Ponce

Training Manager/Licensed Instructor
Guide Dogs of America
dgponce@guidedogsofamerica.org
Sylmar, California

Lattice Porter

Advocate
United States Air Force
lattice.porter@luke.af.mil
Luke Air Force Base, Arizona

Shanon Pouelsen

Victim Services Coordinator
Criminal Justice Coordinating Council
shanon.pouelsen@cjcc.ga.gov
Atlanta, Georgia

Theresa Pritchard

Director of Advocacy/LAV Project Director
Florida Council Against Sexual Violence
tpritchard@fcasv.org
Tallahassee, Florida

Victoria Pugh

Law Student
North Carolina Central University School of Law
vpugh@eagles.nccu.edu
Raleigh, NC

Amanda Pyron

Supervisory Victims Coordinator DOJ/U.S.
Parole Commission
amanda.k.pyron@usdoj.gov
District of Columbia, Washington, D.C.

Denna Rawie

Victim Witness Specialist
United States Attorney's Office
denna.rawie@usdoj.gov
Portland, Oregon

Jabeen Reza

Staff Attorney
Sexual Assault Legal Institute
jreza@mcasa.org
Silver Spring, Maryland

*Member of the NCVLI Board of Directors

ATTENDEE DIRECTORY

Margaret Rocco

Graduate Legal Intern
The Safe Center Legal Institute
margaret.rocco@gmail.com
Bethpage, New York

Lauren Rosenblatt

Special Victims' Counsel
United States Air Force
lauren.rosenblatt@us.af.mil
Little Rock Air Force Base, Arkansas

Adrienne Sadosky

Victims' Legal Counsel
United States Navy
adrienne.sadosky@navy.mil
San Diego, California

Goldann Salazar

Administrative Assistant
National Crime Victim Law Institute
gsalazar@lclark.edu
Portland, Oregon

Trina Sears

Attorney
Alaska Office of Victims' Rights
Anchorage, Alaska

Adrienne Serbaroli

Victims Legal Counsel
United States Marine Corps
adrienne.serbaroli@usmc.mil
Carlsbad, California

Joel Shapiro

Policy Counsel
Shared Hope International
joel@joelshapiro.com
Portland, Oregon

Colleen Shook

OIC, Victims' Legal Counsel Program Mid-
Atlanta
United States Navy
colleen.shook@navy.mil
Naval Station Norfolk, Virginia

Shannon Sivell

Director
Oregon Department of Justice
shannon.l.sivell@doj.state.or.us
Salem, Oregon

Carey Ellen Smith

Major Accounts Manager
Verizon Wireless
careyellen.smith@verizonwireless.com
Beaverton, Oregon

Melinda Smith

Victim and Witness Assistance Program
Coordinator
United States Air Force
melinda.smith.7@us.af.mil
JBSA-Lackland, Texas

Sherri Star

Claims Specialist
Office of Crime Victim Services, Wisconsin
starkse@dog.state.wi.us
Madison, Wisconsin

Victor Stone

Attorney
Maryland Crime Victims' Resource Center, Inc.
vstone@mdcrimevictims.org
Upper Malboro, Maryland

Jennifer Storm*

Victim Advocate
Office of the Victim Advocate
jstorm@pa.gov
Harrisburg, Pennsylvania

Amy Terrible

CEO/President
Crime Victim Advocacy Center of Tulare County
amy@cvactc.org
Visalia, California

*Member of the NCVLI Board of Directors

ATTENDEE DIRECTORY

Dana Thomas

Restitution Recovery Unit Coordinator
Utah State Office for Victims of Crime
danathomas@utah.gov
Salt Lake City, Utah

Brian Thompson

Air Force Chief Senior Trial Counsel
United States Air Force
brian.m.thompson34.mil@mail.mil
Joint Base Andrews, Maryland

Marc Tilney

Victims' Legal Counsel
United States Marine Corps
marc.tilney@usmc.mil
Quantico, Virginia

Tracy Trefren

Teton County Victim Assistance
ttrefren@ci.jackson.wy.us
Jackson, Wyoming

Richard Turner

Training Center Director
Oregon Commission for the Blind
richard.turner@state.or.us
Portland, Oregon

Sloan Tyler

Director, Special Victims' Counsel
United States Coast Guard
sloan.a.tyler@uscg.mil
New London, Connecticut

Gregor Urbas

Associate Professor of Law
University of Canberra
Gregor.Urbas@canberra.edu.au
Canberra, Australia

Steve Valdiva

Victim Advocate
Maricopa County Attorney's Office
valdis01@maco.maricopa.gov
Phoenix, Arizona

Mary Wallace

Social Worker/Victim Service Coordinator
Arizona Voice for Crime Victims
mwallace@voiceforvictims.org
Tempe, Arizona

Celeste Walsen

Executive Director
Courthouse Dogs Foundation
celeste@courthousedogs.org
Bellevue, Washington

Tim Ward

District Attorney
Office of the District Attorney, County of Tulare
rgeorge@co.tulare.ca.us
Visalia, California

Timothy Ward

Deputy Staff Judge Advocate
United States Air Force
timothy.ward.5@us.af.mil
Minot Air Force Base, Texas

W. Warren H. Binford

Associate Professor
Willamette University College of Law
wbinford@willamette.edu
Salem, Oregon

Katrina Watson

Senior Staff Attorney
Immigration Counseling Service
kwatson@ics-law.org
Portland, Oregon

Erin Welsh

Crime Victim Compensation Claims Specialist
Office of Crime Victim Services
welshb@dog.stat.wi.us
Madison, Wisconsin

Dustin Whetsel

Victims' Legal Counsel
United States Marine Corps
dustin.whetsel@usmc.mil

*Member of the NCVLI Board of Directors

ATTENDEE DIRECTORY

Lynne Whiteman

Victim Services Manager
Benton County District Attorney
renee.hammill@co.benton.or.us
Corvallis, Oregon

Christopher Wilson

Psychologist
Private Practice
chris@drchristopherwilson.com
Portland, Oregon

Michael Wu

Board Member
OR Board of Parole & Post-Prison Supervision
michael.y.wu@doc.state.or.us
Salem, Oregon

Leann Yang

Victims Legal Counsel
United States Navy
leann.yang@navy.mil
Marysville, Washington

Diana Young

Legal Advocate
Sexual Assault Support Services (SASS)
legaladvocate@sass-lane.org
Eugene, Oregon

Lisa Zauner*

Perkins & Company
lzauner@perkinsaccounting.com
Portland, Oregon

*Member of the NCVLI Board of Directors

ABOUT NCVLI

- Basics:** Founded in 2000, the National Crime Victim Law Institute (NCVLI) is a nonprofit research, education, and advocacy organization located in Portland, Oregon, at Lewis & Clark Law School.
- Mission:** To actively promote balance and fairness in the justice system through crime victim centered legal advocacy, education, and resource sharing.
- Vision:** A society in which every right of every crime victim is honored in every case. A society where:
- Every crime victim has comprehensive and meaningful legal rights and can access a knowledgeable attorney for representation;
 - Every crime victim's attorney has access to education, training, and technical support from a community of experts;
 - Everyone in the justice system is knowledgeable about and respects the legal rights of crime victims; and
 - Crime victims' rights are routinely enforced to facilitate meaningful participation in the justice system.
- Values:** NCVLI's work is guided by the following values:
- Building a system that supports victims' rights requires participation of crime victims in achieving the mission.
 - Enhancing fairness and justice requires a process of social change, which is built on a balanced approach of three efforts: legal advocacy, training & education, and public policy.

NCVLI'S BOARD OF DIRECTORS & ADVISORY COUNCIL

Board of Directors

Sean M. Beers, J.D., C.P.A., Past President

Sean Beers came to NCVLI while attending Lewis & Clark Law School. NCVLI's former Executive Director, Doug Beloof, was impressed by Mr. Beer's dedication to the law and asked him to join the Board in 2002. A Certified Public Accountant, Mr. Beers earned a bachelor's degree in Accounting from Linfield College and holds a J.D from Lewis & Clark Law School. He has been a member of the Oregon State Bar since 2005. Mr. Beers served as the Chair of the Board from 2005-2010.

Doug Beloof, J.D., Secretary, Member of the Executive and Nominating Committees

Doug Beloof is a Law Professor at Lewis & Clark Law School and is the founder and former Executive Director of NCVLI. Professor Beloof has written the only casebook on the subject of crime victim law, *Victims in Criminal Procedure*, and has been cited by the United States Senate Judiciary Committee as an expert on crime victim law. He is a leader in legal education in crime victim law and writes amicus briefs to appellate courts nationwide. Professor Beloof joined the Board in 2008.

Helene R. Davis, President, Member of the Executive and Education Committees

Helene Davis grew up in Philadelphia, Pennsylvania, receiving her AA in Business Administration, and worked as a mental health professional. In 1980, she and her family moved to Oakland, California, where she continued to work in children's mental health services. In 1989, Ms. Davis' son was murdered and she began her work on behalf of homicide victims and other victims of violent crime. She is the co-leader of the first support group specifically for families of homicide victims in the Oakland Metropolitan area. Ms. Davis served as a State Commissioner on Juvenile Justice, Crime, and Delinquency Prevention from 1994 through 2002. In 1996, she became a founding member of a local group, Mothers Against Murder and Assault (MAMA). MAMA provides rehabilitative services to youth in the custody of the Alameda County Probation Department, aiding in their successful reentry to the community and reduction in recidivism. Ms. Davis joined the Board in 2002.

Hon. Paul J. De Muniz, Member of the Nominating Committee

The Honorable Paul J. De Muniz was elected to the Oregon Supreme Court in 2000 and served as the court's chief justice and administrative head of the Oregon Judicial Department from January 2006 to May 2012, retiring from the court at the end of 2012. Between 1990 and 2000, he sat on the Oregon Court of Appeals and served as presiding judge on one of the three panels that comprise that body. Prior to ascending to the bench, Justice De Muniz was in private practice for 13 years with the Salem, Oregon, law firm of Garrett, Seideman, Hemann, Robertson and De Muniz P.C., where he specialized in complex criminal and civil litigation, as well as appeals. From 1975 to 1977, he was a deputy public defender for the State of Oregon. In November 2011, Justice De Muniz was inducted into the National Center for State Courts' Warren E. Burger Society in recognition of his commitment to improving the administration of justice within the states. In addition to his work within Oregon, he also was a member of the Conference of Chief Justices and was elected to its board of directors in 2008. He is on the board of trustees for the National Judicial College and recently completed a three-year term as a member of the Harvard Kennedy School's Executive Session for State Court Leaders in the 21st Century. In 2002, Justice De Muniz founded a rule-of-law partnership with judicial leaders in the Russian Far East, working with lawyers and judges in Russia to implement reforms within the Russian criminal justice system. Justice De Muniz speaks frequently to both national and international audiences on the importance of maintaining independent state judiciaries, improving state court administration and the need for adequate state court funding. He has served as the 2009 Robert H. Jackson Lecturer for the National Judicial College and, in 2010, addressed judicial leaders from 55 countries at the Asian Pacific Courts

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Conference on the ways and means of judicial branch strategic planning. Later that year, Justice De Muniz gave the 17th annual Justice William Brennan Lecture on State Courts and Social Justice at New York University Law School, discussing the need for reengineering state court operations. Justice De Muniz's work has been recognized with a number of state and national awards, among them: the National Judicial College's 2009 Distinguished Service Award, the National Association of Criminal Defense Lawyers' Judicial Recognition Award, the Oregon Classroom Law Project's 2011 Legal Citizen of the Year Award, the Oregon Area Jewish Committee's 2010 Judge Learned Hand Lifetime Achievement Award, the Oregon Hispanic Bar Association's Paul J. De Muniz Professionalism Award, the Edwin J. Peterson Racial Reconciliation Award, the Oregon Criminal Defense Lawyers' Association Ken Morrow Lifetime Achievement Award and the Marion County Bar's Paul De Muniz Professionalism Award. He was raised by his mother in Portland, Oregon, and attended Portland's public schools. After finishing high school, he joined the U.S. Air Force and served a one-year tour of duty in Viet Nam. After his discharge from the service, he received his bachelor's degree from Portland State University in 1972 and his juris doctor from the Willamette University College of Law in 1975. Justice De Muniz was the first Hispanic American elected to statewide office in Oregon. In 2010, Hispanic Business Magazine named him among the 100 most influential Hispanics in America. Justice De Muniz and his wife, Mary, reside in Salem, Oregon, and have three grown children and two grandchildren.

Sarah Gustafson, Treasurer, Member of the Executive and Development Committees

Sarah Geary Gustafson grew up in Vancouver, Washington, and graduated high school from Oregon Episcopal School in 1982. She received a BA in Political Science from Brown University in 1986 and a J.D. from the University of Puget Sound, School of Law in 1989. She practiced law in Seattle, Washington, Yakima, Washington, and Portland, Oregon, over a ten-year period before re-training at Portland State University to become a school teacher. Ms. Geary Gustafson's career as a school teacher was primarily devoted to at-risk teens in alternative placement settings. She was the Academic Director of Elk Mountain Academy in Heron, Montana. Currently, Ms. Geary Gustafson is executive assistant to Richard and Janet Geary, where she manages the work of her family Foundation, the Richard and Janet Geary Foundation. She has two children, Gordon and Conrad, and a husband, James M. Gustafson, whom she met at Oregon Episcopal School in 1976. She enjoys travel and scuba whenever she can. Ms. Geary Gustafson joined the Board in 2011.

John W. Gillis, Chair of the Nominating Committee

John W. Gillis was nominated by President George W. Bush and confirmed by the U.S. Senate in September, 2001 as the National Director, Office for Victims of Crime, U. S. Department of Justice. In this capacity, Director Gillis had oversight for priority initiatives including International Terrorism and Victim Assistance, Human Trafficking, and the Crime Victims' Fund in all 50 states and all U.S. Territories. Prior to the Department of Justice appointment, Mr. Gillis served as the chair of the California Board of Prison Terms and was with the Los Angeles Police Department for more than two decades. He retired from the Los Angeles Police Department in 1988 after twenty-six years of service, retiring with the rank of Assistant Commanding Officer, Communications Division. In addition to a Master of Science Degree in Public Administration from the University of Southern California, he holds a BA degree in Political Science from California State University at Los Angeles. He has studied Law at Glendale College School of Law. He also holds a Community College Teaching Credential – teaching criminal law and Administration of Justice classes. Following the 1979 murder of his daughter Louarna, Mr. Gillis became a founding member of Justice for Homicide Victims (JHV) and the Coalition of Victims Equal Rights, a statewide organization that worked on behalf of the rights of victims and their families. In 1991, President George H. W. Bush presented Mr. Gillis with the National Crime Victim Service Award for his work in helping crime victims. In 1993, former U.S. Attorney General William P. Barr recognized Mr.

NCVLI'S BOARD OF DIRECTORS & ADVISORY COUNCIL

Gillis' crime victim service with a Special Commendation Award. He served four years as a member of the California State Bar Association's Crime Victims and Corrections Committee and four years on the American Legislative Exchange Council's Victim Committee. Mr. Gillis is a founding member of the "Council on Crime in America," which was formed in 1994. The 11-member Council was co-chaired by former U.S. Attorney Griffin Bell and former U.S. Education Secretary & Drug Czar William J. Bennett. Mr. Gillis joined the Board in 2010.

Douglas G. Houser, J.D., Chair of the Development Committee (*Director Houser's term ends June 2014 at which time he will become an ex officio member of the Board*)

Douglas G. Houser is a Senior Counsel at Bullivant Houser Bailey PC. Mr. Houser graduated from Willamette University (B.A., 1957) and Stanford University College of Law (J.D., 1960). He is a Fellow of the American College of Trial Lawyers, a Fellow of the International Academy of Trial Lawyers, a former member of the Rand Institute Board, and has served on the Board of Directors at Nike, Inc. since its creation. Doug joined the NCVLI Board in 2008.

Hon. Diane J. Humetewa, J.D., Advisory Board Member (*Director Humetewa's term was completed May 2014, prior to her confirmation*)

The Honorable Diane Humetewa was recently confirmed as a District Court Judge for the United States District Court for the District of Arizona. She previously served as the Special Advisor to Arizona State University President Crow on American Indian Affairs, Special Counsel in the ASU General Counsel's Office and Professor of Practice at the ASU Sandra Day O'Connor College of Law. Prior to this position, Judge Humetewa was the United States Attorney for the District of Arizona. A member of the Hopi tribe, she was the first Native American woman to serve in that position. Judge Humetewa began her public service career as one of the first victim advocates in the federal criminal justice system when she was hired to establish a Victim Witness Program for the Arizona U.S. Attorney's Office. That program later served as a model for offices with similar jurisdictions across the nation. Ms. Humetewa has also served as Of Counsel in the Federal Indian Law Section of the law firm of Squire, Sanders and Dempsey LLP. She received her law degree in 1993 from the Sandra Day O'Connor College of Law at ASU. She is considered a national expert on American Indian legal issues and has instructed law enforcement and prosecutors. She has served as an Appellate Court judge for the Hopi Tribe and as an ad hoc member of the Native American Subcommittee of the U.S. Sentencing Commission.

William P. McCormick, Member of the Development Committee

William (Bill) McCormick is the founder of the restaurant company McCormick & Schmick's Seafood Restaurants and served as the U.S. Ambassador to New Zealand and American Samoa from 2005 to 2009. Mr. McCormick attended Roger Williams Jr. College and Boston University while serving in the Army Reserve Military, and later attended the Harvard Graduate School of Business, Executive Management Program. Throughout his business career, Mr. McCormick's civic and charitable involvement has been far-reaching and has encompassed virtually all aspects of society and its institutions. He has provided thousands of pounds of food for the Pasadena, California food bank, secured 10,000 books for disadvantaged children in Los Angeles County and began the Shamrock Run twenty seven years ago for the benefit of many service organizations in Portland, Oregon. As co-chair of the Portland Opera Foundation, he was also successful in helping the organization raise \$24 million. Mr. McCormick was awarded the Secretary's Award by the U.S. Department of Veteran's Affairs for his contributions to the nation's veterans. Mr. McCormick's community involvement has included serving on the boards of such organizations as the Oregon Historical Society, the Portland Opera, North West Mental Health Services, the Oregon Restaurant Association and the Oregon Museum of Science and

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Industry. He has also served as President of the Portland Police Chief's Forum and Vice-Chair of the Citizen's Crime Commission. Mr. McCormick joined NCVLI's Board of Directors in 2012.

Diane Moyer, J.D., Member of the Nominating Committee

Diane Moyer is Legal Director for the Pennsylvania Coalition Against Rape, founded in 1975; the Coalition has a network of 51 rape crisis programs that provide services to every county in the Commonwealth. Since 1996, Ms. Moyer has been working to advance PCAR's mission to advocate for the rights and needs of victims of sexual assault. Ms. Moyer has appeared in numerous media outlets, from New York talk shows to local PBS stations, and from the Washington Post to the Weekly Reader. Ms. Moyer has won the Victim Advocacy Award from the National Crime Victim Law Institute and the Leadership Award from the Victim Rights Law Center. Through her work on the National Task Force to End Sexual and Domestic Violence, Ms. Moyer has worked tirelessly to ensure that federal legislation addresses civil legal needs of victims of sexual assault as well as to ensure parity in funding for service providers in rape crisis programs. At the state level, Ms. Moyer has worked to increase penalties for drug induced rape, to extend the civil statute of limitations for child victims of sexual abuse, to create a standardized rape kit for the Commonwealth, and to create a statewide plan for the community supervision and management of sex offenders. As a faculty member of the AEquitas, a national prosecutor training institute, Ms. Moyer helped to develop the curricula and continues to train prosecutors nationwide on the prosecution of non-stranger rape. Ms. Moyer is a graduate of Dickinson College and the New England School of Law. Ms. Moyer joined NCVLI's Board of Directors in 2011.

Candace Newland-Holley, Chair of the Education Committee

Candace Newland-Holley retired from her 31 years of work with public schools in Oregon in 2003. Within that thirty-one year period, Candace worked in a variety of roles, primarily as a principal, but also as school administrator, a curriculum resource coordinator and as a teacher. During that time, she was always a strong advocate for children's rights while creating safe and creative school environments: all staff, children, and families were encouraged to work together collaboratively to help each individual stretch toward their greatest academic, social, emotional, physical and creative potential. Throughout her career, Ms. Newland-Holley was involved with educational leadership at the national, state and local levels. In 1998, she was awarded the National Elementary Distinguished Principal for the State of Oregon. In 2000, she was selected to be a member of the first U.S. delegation of elementary principals to visit China. Ms. Newland-Holley earned her Bachelor's degree from Oregon State University, her Master's degree from Lewis and Clark, and her administrative credentials from Portland State University. Ms. Newland-Holley and her husband John live in Wilsonville, Oregon, and have three grown children and seven grandchildren between them. Ms. Newland-Holley joined the Board in 2009.

Janis C. Puracal, Member of the Education Committee

Janis C. Puracal is an appellate attorney at Maloney Lauersdorf Reiner PC. Ms. Puracal received a BA from New York University in 2001 and a J.D. from Seattle University School of Law in 2007. Ms. Puracal served as a judicial clerk in a three-judge chamber at the United Nations International Criminal Tribunal for the Former Yugoslavia in The Hague. She went on to build an appellate practice at MLR based on her extensive experience in jury trials, appeals, and arbitrations. Ms. Puracal is also known for her pro bono work in the community. She joined the NCVLI board in 2013 and then became a co-founder of the Oregon Innocence Project. Her commitment to this work stems from the two years she spent on a pro bono representation leading an international campaign to free her brother, Jason Puracal, from wrongful conviction in Nicaragua. Her work included briefing in the Nicaraguan and international courts, diplomatic relations in the U.S. and Nicaragua, lobbying on Capitol Hill in Washington DC, and media appearances on a national and international level, including CNN, Reuters, and The Today Show. Ms.

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Puracal has used her experience in that case to advocate for legal reform and to engage law students in the process.

Jennifer Storm, Member

Governor Tom Corbett nominated Jennifer Storm as Commonwealth Victim Advocate on Nov. 8, 2013, and she was confirmed by the Pennsylvania state Senate on Dec. 10, 2013, to serve a six-year term. As Victim Advocate, she is responsible for representing the rights and interests of crime victims before the Board of Probation and Parole and the Department of Corrections and to provide notification to crime victims of the potential for inmate release, opportunity to provide testimony, and notification of the inmate's movement within the correctional system. Further, Ms. Storm is responsible for advocating the interests of adult and juvenile crime victims throughout Pennsylvania. Prior to this appointment, Ms. Storm served for 10 years as executive director of the Dauphin County Victim/Witness Assistance Program, a non-profit organization which provides direct services to victims of crime, community outreach and training in victim's rights, and crisis response services. The author of several books and magazine articles, Ms. Storm has received numerous awards for the telling of her personal story of victimization, addiction and recovery. She has traveled the country giving keynotes, lectures, workshops, and panel discussions regarding victims' rights, LGBT rights, addiction and recovery, and civil rights. Ms. Storm has been profiled in and interviewed for many major national media outlets including: NBC's The Today Show and Dateline, People Magazine, CNN, Rolling Stone Magazine, World News Tonight with Diane Sawyer, CBS 48 Hours Live to Tell, E! News, Washington Post, Business Weekly, USA Today and many more. Ms. Storm currently serves on the Pennsylvania Commission on Crime and Delinquency, Victim Services Advisory Committee, PA Commission on Sentencing, Crime Victims Alliance of PA, the State Council for The Interstate Compact on Juvenile and Adult Offenders and chairs the PA Task Force on Restitution. Ms. Storm joined the NCVLI Board in 2014.

Lisa Zauner, Member of the Development and Finance Committees

Lisa Zauner heard about NCVLI through a colleague at Perkins & Co, where she has worked in the audit department since 2008. The victim's right movement holds particular appeal for Lisa, and she was honored by the chance to join the board in 2012. Ms. Zauner has worked in public accounting since 2002. She graduated Magna Cum Laude from the University of Washington with a degree in accounting and is affiliated with the American Institute of CPAs and the Oregon Society of CPAs. She enjoys spending her free time running the trails near her home in Portland, Oregon, and taking camping trips with her husband, Joe, and their young daughter, April. Ms. Zauner joined the Board in 2012.

Advisory Council

In 2013 NCVLI's Board of Directors formally created a Victims' Rights Advisory Council. The function of the Council is to advise and make non-binding recommendations to NCVLI in order to strengthen the impact of NCVLI's work to protect, advance, and enforce victims' rights, to raise awareness about victims' rights, and to call the larger community to action. The creation of the Advisory Council was inspired by invaluable contributions of long-time Advisory Board Member Diane Humetewa who demonstrated by example how community members can make tremendous contributions to the work of NCVLI without being full Board members. During 2014 and 2015 NCVLI will be inviting members of the community to join the council.

NCVLI STAFF

Terry L. Campos, J.D.

At NCVLI, Ms. Campos researches victims' rights laws and policies across the United States, provides technical legal assistance to attorneys and advocates nationwide, and presents online and in-person trainings and webinars on a variety of victims' rights topics. Prior to joining NCVLI, Ms. Campos was an appellate attorney with the Office of the State Appellate Defender in Chicago, Illinois. During her time at OSAD, Ms. Campos represented indigent persons on appeal in criminal cases. Ms. Campos interned for the Metropolitan Public Defender in Portland, Oregon. Ms. Campos has a B.S. in Wildlife Ecology from the University of Florida and a J.D. from the Northwestern School of Law of Lewis & Clark College with a certificate in Criminal law. Ms. Campos joined NCVLI in May 2008.

Scott Flor

Mr. Flor provides administrative support for the organization, performing accounting and budgeting functions. He holds a Bachelor of Science in Psychology from California State University, San Diego, and an MBA in Finance from California State University, Hayward. Mr. Flor worked as Fiscal Director with a local nonprofit organization prior to his work with NCVLI. Mr. Flor joined NCVLI in May 2008.

Meg Garvin, M.A., J.D.

Meg Garvin is the Executive Director of NCVLI and a clinical professor of law at Lewis & Clark Law School. Ms. Garvin is recognized as a leading expert on victims' rights. She has testified before Congress and the Oregon Legislature on the current state of victim law. She serves on the Legislative & Public Policy Committee of the Oregon Attorney General's Sexual Assault Task Force, the Oregon Attorney General's Crime Victims' Rights Task Force, and is a Board member of the Citizens' Crime Commission. She previously served as co-chair of the American Bar Association's Criminal Justice Section Victims Committee, and as a member of the board of directors for the National Organization of Victim Assistance. She is the recipient of 2012 Crime Victims First-Stewart Family Outstanding Community Service Award. Prior to joining NCVLI, Ms. Garvin practiced law in Minneapolis, Minnesota and clerked for the Eighth Circuit Court of Appeals. She received her B.A. from the University of Puget Sound, her M.A. in communication studies from the University of Iowa, and her J.D. from the University of Minnesota. Ms. Garvin joined NCVLI in February 2003.

Rebecca Khalil, J.D.

Ms. Khalil is an attorney with NCVLI and directed NCVLI's Safeguarding Child-Victims' Rights Initiative from 2010-2012. At NCVLI, Ms. Khalil researches victims' rights laws and policies across the United States, drafts amicus briefs, provides technical legal assistance to attorneys and advocates nationwide, and creates and presents online and in-person trainings and webinars on a variety of victims' rights topics. Before joining NCVLI, Ms. Khalil was a litigation associate with Baker & Hostetler LLP in New York City, where she worked on a number of complex commercial and business litigations, including trade secret, securities, and contract cases, as well as white collar criminal defense, governmental and quasi-governmental matters, and corporate investigations. During law school, she was an extern with the Criminal Division of the U.S. Attorney's Office in San Jose, California. Ms. Khalil holds a B.A. in History from Seattle University and earned her J.D. from Stanford Law School, where she was elected to the Order of the Coif. Ms. Khalil joined NCVLI in December 2010.

Julie Landrum, M.B.A.

Ms. Landrum coordinates NCVLI's development efforts, including fundraising, donor development, grant writing, board and organizational development, and event planning. Ms. Landrum previously served as the Project Director for NCVLI's Vision 21 grant, which was part of a nationwide strategic planning

NCVLI STAFF

initiative funded by the Office for Victims of Crime looking at the future of the crime victims' field. She took a hiatus from NCVLI in 2011 to complete an MBA program at Marylhurst University and returned to NCVLI in 2013. She also holds a B.A. in Government from the University of Texas. Ms. Landrum joined NCVLI in November 2010.

Sarah LeClair, J.D.

Ms. LeClair is an attorney at NCVLI. She participates in the continued development and implementation of NCVLI's national litigation and education strategies, including providing legal technical support to attorneys and advocates and writing amicus briefs on a wide variety of victim-law related topics. Ms. LeClair also leads NCVLI's legal publications project, with responsibility for managing the content, look, and distribution of NCVLI's legal publications. Before joining NCVLI, Ms. LeClair served as judicial clerk for the Honorable Rick Haselton of the Court of Appeals of the State of Oregon, after which she practiced law as a litigation associate at Miller Nash LLP in Portland, Oregon. During law school Ms. LeClair interned with the U.S. Attorney's Office for the Western District of Virginia and with the United States Department of Justice, Criminal Appellate Section. She has a B.A. in History from the University of Oregon and a J.D. from the University of Virginia School of Law. Ms. LeClair joined NCVLI in January 2009.

Amy C. Liu, J.D.

Ms. Liu is an attorney at NCVLI. She has provided legal technical assistance to attorneys and victim advocates on a wide range of crime victims' rights issues; drafted trial and appellate amicus briefs; presented on victims' rights issues at local and national conferences; and conducted practical skills trainings for attorneys across the country. Before joining NCVLI, she worked in student services at the University of Iowa College of Law and also practiced law as a litigation associate in the Los Angeles offices of Skadden, Arps, Slate, Meagher & Flom LLP and Morgan, Lewis & Bockius LLP. Ms. Liu clerked for the Honorable Audrey B. Collins and the Honorable Robert J. Kelleher of the United States District Court, Central District of California. She received her B.A. in Economics/Business and J.D. from the University of California, Los Angeles. Ms. Liu joined NCVLI in November 2010.

Goldann Salazar

Ms. Salazar provides administrative support to staff members of NCVLI and the Board of Directors. She helps maintain the NCVLI website, and supports NCVLI events and publications. Prior to joining NCVLI, Ms. Salazar worked as an administrative assistant in the undergraduate Office of Admissions at Lewis & Clark College. Ms. Salazar is originally from Portland and graduated from Lewis & Clark College with a B.A. in Sociology and Anthropology. Ms. Salazar joined NCVLI in May 2013.

Alison Wilkinson, J.D.

Ms. Wilkinson is an attorney at NCVLI and leads its Responding to Violence Against Women Initiative. Ms. Wilkinson has worked on a broad range of technical assistance requests at NCVLI, including drafting amicus briefs, and performing research and drafting memos on issues relating to sexual assault, domestic violence, and privacy, among other topics. She has presented at both local and national conferences on victims' rights. She has also been appointed by the Oregon Attorney General to Oregon's Sexual Assault Task Force. Prior to joining NCVLI, Ms. Wilkinson worked as a litigation associate at Orrick, Herrington & Sutcliffe in New York City. Ms. Wilkinson has a B.A. in English from the University of Michigan and a J.D. from the University of Virginia School of Law. Ms. Wilkinson joined NCVLI in January 2009.

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OUR TOOLS: Legal Advocacy, Training & Education, and Public Policy

LEGAL ADVOCACY. We fight for victims' rights by filing amicus curiae (friend of the court) briefs in victims' rights cases nationwide. Through our National Alliance of Victims' Rights Attorneys & Advocates (NAVRA), we also work to pair crime victims with free attorneys and advocates and then work to ensure that they can make the best arguments possible. We do this by providing legal technical assistance in the form of legal research, writing and strategic consultation.

TRAINING & EDUCATION. We train nationwide on the meaning, scope, and enforceability of victims' rights through in-person practical skills courses, online webinars, and teleconferences. We also host the only conference in the country focused on victim law.

PUBLIC POLICY. We work with partners nationwide to secure the next wave of victims' rights legislation; legislation that guarantees victims substantive rights and the procedural mechanisms to secure those rights.

GET INFORMED & GET INVOLVED

ACCESS RESOURCES

Visit our online Victim Law Library, containing victims' rights laws from across the country, summaries of the latest court cases, and a variety of victims' rights articles and resources.

ATTEND A TRAINING

Join us at one of our online or in-person trainings on topics ranging from introduction to victims' right to advanced litigation practice. We host trainings across the country and around the world.

STAY INFORMED & SPREAD THE WORD

Sign up to receive our updates and follow us on social media.



GIVE

Sponsor one of our victims' rights events or publications; give through your workplace campaign (CFC # 48652); or donate by mail or online – www.ncvli.org.

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Become a member of our National Alliance of Victims Rights Attorneys & Advocates (NAVRA) – a membership alliance of attorneys, advocates, law students, and others committed to protecting and advancing victims' rights. Visit www.navra.org to learn more.

**Representation of Children
as a
Guardian Ad Litem 2011**

Presented by

Virginia CLE®

and

**Court Improvement Program, Office of the Executive Secretary
Supreme Court of Virginia**

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ABOUT OUR SPEAKERS

Hon. Thomas P. Sotelo, Fairfax Juvenile and Domestic Relations Court / *Fairfax*
Judge Sotelo received an interim appointment to the Bench of the Fairfax County J&DR Court by the Fairfax County Circuit Court on December 1, 2008. After his appointment was confirmed by the General Assembly, Judge Sotelo's official term commenced February 1, 2009. Prior to his appointment, Judge Sotelo practiced law for approximately 18 years. His areas of concentration included domestic relations, juvenile and criminal law. He regularly served as a Guardian *Ad Litem* in high conflict custody cases and other types of cases in the Fairfax County J&DR and Circuit Courts. Judge Sotelo also served as a Substitute County Attorney for the County of Fairfax on an as needed basis and represented the Fairfax County Department of Social Services in abuse and neglect, CHINS and other related proceedings during different periods of his career. He also served by appointment as a conciliator for the Fairfax County J&DR Court and as a neutral case evaluator for the Fairfax County Circuit Court. Prior to practicing law, Judge Sotelo was the law clerk to the Honorable Richard J. Jamborsky (Ret.) of the Fairfax County Circuit Court. Judge Sotelo received a Bachelor of Arts in Government and Politics from George Mason University in 1987 and his Juris Doctor from the Marshall-Wythe School of Law, College of William and Mary in 1990. Judge Sotelo is married to Martha Leary Sotelo, Esquire, and has two daughters.

Michelle Clayton, MD, MPH, Child Abuse Program, Children's Hospital of The King's Daughters / *Norfolk*

Dr. Michelle Clayton completed medical school at the University of Pittsburgh, and completed a residency in Pediatrics at Children's Hospital of The King's Daughters (CHKD) in Norfolk, Virginia. She is trained as an epidemiologist, and has conducted epidemiologic research. Dr. Clayton completed a fellowship in Forensic Pediatrics (Child Abuse Pediatrics) at the CHKD Child Abuse Program. She is an Assistant Professor of Pediatrics at Eastern Virginia Medical School. She lectures to medical and investigative audiences, and is in the process of publishing research in the field of child abuse. She is a fellow of the American Academy of Pediatrics (AAP), and a member of the American Professional Society on the Abuse of Children (APSAC), and the AAP Section on Child Abuse and Neglect (SCAN). She is also a member of local organizations and state committees designed to prevent and investigate child abuse, including Prevent Child Abuse Hampton Roads, and the Hampton Roads Child Fatality Review Team.

Leslie T. Haley, Virginia State Bar / *Richmond*

Leslie A. T. Haley is the Assistant Ethics Counsel for the Virginia State Bar. As Assistant Ethics Counsel, she is currently staff liaison to the Legal Ethics Committee; drafts advisory ethics opinions, and provides informal advice over the telephone to members of the bar, bench and general public on matters involving legal ethics, lawyer advertising and the unauthorized practice of law. She authors numerous CLE materials and frequently lectures on matters relating to legal ethics, advertising and unauthorized practice.

Prior to joining the Bar, Ms. Haley was in private practice for five years, practicing principally in the areas of domestic, criminal and personal injury law.

Ms. Haley attended West Virginia University, where she graduated cum laude with a BS in Business Administration/Marketing. After a sales career with Philip Morris, USA, Ms. Haley returned to WVU and received her JD in 1993.

Lelia Baum Hopper, Supreme Court of Virginia / Richmond

Lelia Baum Hopper is Director of the Court Improvement Program for the Office of the Executive Secretary, Supreme Court of Virginia. Virginia was awarded its first grant for the Court Improvement Program (CIP) by the U.S. Department of Health and Human Services in February 1995. This program focuses upon improving the ability of the court system to manage and resolve cases of child abuse, neglect and foster care. CIP staff works on all aspects of juvenile and family law to integrate best practices into the policy and daily routines of the court system. Ms. Hopper also administers the program that qualifies lawyers as guardians ad litem for children and incapacitated adults.

Ms. Hopper is a lawyer and began her career working for the General Assembly of Virginia in the Division of Legislative Services. She left the legislative branch to serve in the Governor's Cabinet as Deputy Secretary of Human Resources during the administration of Governor Charles Robb. She served as staff to the Commission on the Future of Virginia's Judiciary from 1987-1989, and from June 1989-1996, was Director of the Family Court Project at the Court.

Prior to working in the Office of the Executive Secretary, Ms. Hopper held various positions as an adjunct faculty member at the Law School at the College of William and Mary and as a consultant to special projects in the executive and legislative branches of government. She is a long-time advocate of effective policies and programs for children and families. She received a B.A. from Westhampton College, University of Richmond, and a J.D. from Marshall-Wythe School of Law, College of William and Mary.

Geetha Ravindra, Dispute Resolution Services / Glen Allen

Geetha Ravindra is an attorney with over 18 years of experience in mediation and large group facilitation. Ms. Ravindra managed the Dalkon Shield Arbitration Program from 1992-1996. From 1996-2007, Ms. Ravindra served as Director of the Department of Dispute Resolution Services at the Supreme Court of Virginia and was responsible for the development and oversight of court-connected mediation. Ms. Ravindra started her own private mediation and training practice in 2007 and is an Adjunct Professor at the University of Richmond School of Law and William and Mary Law School teaching Mediation and the Role of the Lawyer in Mediation. She provides mediation services in domestic relations, truancy, and foster care cases for the Juvenile and Domestic Relations District Court in Richmond; workplace and EEOC mediation for the Navy, Department of Energy, World Bank, and Veterans Affairs Administration; and conflict resolution training for NASA and several state agencies. Ms. Ravindra is Past President of the Virginia Mediation Network. She is a member of the ABA Dispute Resolution Council, Budget Officer for the Dispute Resolution Section, and past Co-Chair of the ABA Dispute Resolution Section's Mediation Committee. She is Vice Chair of the Virginia State Bar Fee Dispute Resolution Committee and Secretary of the Joint Virginia Bar Association - Virginia State Bar Committee on ADR.

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Excerpt from *Juvenile Law and Practice*, Chapter 2 – The Role of the Lawyer in Juvenile Proceedings

Standards to Govern the Appointment of Guardians Ad Litem Pursuant to § 16.1-266, Code of Virginia

Introduction

The Judicial Council of Virginia has adopted standards to govern the appointment of attorneys as guardians ad litem for certain children. This action has been taken to comply with an enactment by the 1994 Session of the General Assembly that these standards for appointment be in effect as of January 1, 1995. For the dates of amendments to these Standards adopted by the Judicial Council of Virginia and their associated effective dates, see the concluding page of this document.

A copy of these standards as adopted by the Judicial Council follows. "Representation of Children As a Guardian Ad Litem," the continuing legal education program which complies with standard B.1 is administered by Virginia CLE. You may call Virginia CLE at 1-800-979-8253 to indicate your interest in attending such a program and to learn about the program schedule.

There are other requirements in these standards of which you should take note. In order to be included on the list of qualified guardians ad litem, which is periodically distributed to the courts, you must file with the Office of the Executive Secretary, Supreme Court of Virginia, a letter and certain certificates as specified in standard E. The required certificates will be made available to you at the continuing legal education program referenced above.

The goal of these standards is to foster vigorous, effective and competent representation of children's interest and welfare. On behalf of the Judicial Council of Virginia, the Office of the Executive Secretary, Supreme Court of Virginia, looks forward to your participation in the training program and to receiving the information necessary to qualify you as a guardian ad litem for children.

The Standards

The Judicial Council of Virginia, in conjunction with the Virginia State Bar and the Virginia Bar Association, hereby sets forth the following standards to govern the appointment of attorneys as guardians ad litem pursuant to § 16.1-266, Code of Virginia. These standards are intended to foster vigorous, effective and competent representation of children's interests and welfare.

In accordance with the provisions of § 16.1-266.1, to qualify for appointment as guardian ad litem pursuant to § 16.1-266 a person shall:

- A. Be an active member in good standing of the Virginia State Bar.
- B.1. Complete seven hours of MCLE approved continuing legal education in the following areas in order to initially comply with these standards and be included on the list of qualified attorneys:
 - a. Overview of the Juvenile and Domestic Relations District Court Law
 - b. Roles, responsibilities and duties of guardian ad litem representation
 - c. Laws governing child abuse and neglect, foster care case review, termination of parental rights and entrustments
 - d. Role of social services agencies in handling abuse and neglect cases
 - e. Developmental needs of children
 - f. Characteristics of abusive and neglectful families and of children who are victims; physical, medical and mental health aspects of child abuse and neglect

- g. Communication with children; children as witnesses; use of closed circuit television
- h. Cultural awareness

Certification of attendance at “Representation of Children as a Guardian ad Litem” shall be submitted to the Office of the Executive Secretary of the Supreme Court of Virginia on the required form in accordance with paragraph E hereof. Credit for this program must be sought within two (2) years of attendance. If an attorney fails to qualify as a Guardian Ad Litem within that two-year period, the course must be repeated.

2. Complete six hours of approved continuing education biennially thereafter on any topic related to the representation of children as a guardian ad litem. Credit for repeating the basic training class, “Representation of Children as a Guardian Ad Litem” will be approved once within a six-year period. A maximum of six hours will be approved within a six-year period for programs designed especially for attorneys specializing in adoption.

In order to provide flexibility in fulfilling this biennial requirement, a two-year carry-over of credit hours is permitted, so that accrued credit hours in excess of the two-year requirement may be carried forward from one two-year period to meet the requirement for the next two-year period. However, a maximum of six credit hours may be carried forward from one two-year period to the next two-year period.

Certification of attendance and a brief description of the course content of such education programs shall be submitted for approval to the Office of the Executive Secretary of the Supreme Court of Virginia on the required form in accordance with paragraph E of these standards.

COMMENT:

Standard B.2.

The continuing education requirement of six hours every two years may be successfully fulfilled by attendance at a qualified MCLE approved program or any other non-MCLE approved program which assists an attorney in better representing children as a guardian ad litem. The goal is to permit attorneys to participate in interdisciplinary programs with other professions that also focus on serving children and families.

Examples of such programs include: training for Court Appointed Special Advocates (CASA); programs on domestic violence; programs on the “Psychiatric Treatment of Minors Act”; mental health programs on the effect of abuse, neglect, parental termination or divorce on a child; presentations on accessing school services or understanding school records and programs on special education; and programs on the availability of community resources, such as social services, financial assistance and youth centers.

C. Demonstrate familiarity with the court system and a general background in juvenile law by completion of one of the following in the two-year period prior to seeking initial qualification as a guardian ad litem:

1. Participation as an attorney or as a third-year law student under Part 6, § IV, Para. 15, of the Rules of the Supreme Court of Virginia, in four cases in the juvenile and domestic relations district court involving children, excluding traffic cases; or

2. Service as a guardian ad litem or provision of assistance to a qualified guardian ad litem in two cases involving children in the juvenile and domestic relations district court.

The attorney seeking qualification shall in the letter of request required by paragraph E.1 hereof certify that he/she has complied with the applicable provisions of this standard C.1 or C.2.

COMMENT:

Standard C.1

The requirement to “participate” in four cases in the juvenile court either as an attorney or qualified third-year law student may be met by serving either as lead counsel or co-counsel.

Standard C.2

The requirement to “assist” a qualified guardian ad litem in two cases in the juvenile court may be met by the applicant attorney associating with a qualified guardian ad litem who serves as a mentor for those two cases. The purpose of this association is to afford the applicant the opportunity to learn from the qualified guardian ad litem how to effectively handle these cases.

D. Demonstrate proficiency in the representation of children by submission of a required certificate of nomination (i) from one juvenile and domestic relations district court judge before whom the attorney has appeared in cases listed in C.1 or C.2 or (ii) from an active member in good standing of the Virginia State Bar who is a qualified guardian ad litem whom the applicant has assisted in a case pursuant to C.2 hereof.

E.1. Within two (2) years from the date of attendance at the qualifying course specified in paragraph B.1, file with the Office of the Executive Secretary, Supreme Court of Virginia, 100 North Ninth Street, Richmond, Virginia, 23219, a letter which:

- a. Requests qualification as a guardian ad litem.
- b. Includes the applicant’s social security number.
- c. Contains the applicant’s written certification of compliance with paragraph C.1 or C.2. Such certification must specifically state the language of paragraph C.1 or C.2. Please do not provide specific case information.
- d. If not previously submitted, forward a certificate of nomination as required by paragraph D.
- e. If not previously submitted, forward the required form certifying attendance at the MCLE continuing legal education program specified in paragraph B.1.

2. For compliance with the biennial continuing education requirement specified in B.2 of these standards, the required form certifying attendance at the required program hours.

F.1. An attorney shall be removed from the list of qualified guardians ad litem under the following circumstances:

- a. Receipt of a request from the attorney that their name be removed.
- b. Failure to complete the biennial continuing education requirements outlined in Standard B.2 above.
- c. Suspension or revocation by the Virginia State Bar of the attorney's license to practice law in the Commonwealth. Removal under this circumstance will occur upon the Executive Secretary receiving notice of such license suspension or revocation. If an attorney's name is removed from the qualified list because of a license suspension and the attorney would like to again accept appointments as a guardian ad litem, the attorney must contact the Office of the Executive Secretary at the end of the license suspension term and request reinstatement.

2. An attorney removed from the list of qualified guardians ad litem pursuant to Standard F.1.a, Standard F.1.b, and Standard F.1.c (as it relates to a license suspension), must submit the following to the Office of the Executive Secretary to again be included on the list of attorneys eligible for appointment as a guardian ad litem in the Commonwealth:

- a. Within one year of being removed from the list, certification of attendance indicating completion of the required six (6) hours of continuing education.
- b. If more than one year passes since removal from the list, certification of attendance indicating completion of seven (7) hours of approved continuing education.
- c. If more than five years pass since removal from the list, complete the initial qualification process as outlined in Standards A, B.1, C, D, and E.1 above.

The names of applicants who meet these requirements will be included on a list of attorneys qualified as guardians ad litem to be published by the Office of the Executive Secretary, Supreme Court of Virginia, and distributed electronically to the juvenile and domestic relations district courts and circuit courts in the Commonwealth no less than quarterly, at the beginning of January, April, July and October of each year.

Amendments adopted October 18, 1999; effective date January 1, 2000

Amendments adopted October 23, 2006; effective date January 1, 2007

Amendments adopted October 20, 2008; effective date January 1, 2009

Amendments adopted October 13, 2010; effective date January 1, 2011

Interviewing the Child Client Approaches and Techniques for a Successful Interview

Video narrated by Amy Brenneman from *Judging Amy*

Interviewing the Child Client is a project of the Children's Rights Litigation Committee of the American Bar Association Section of Litigation. This video and the accompanying teaching guide provide practical guidance and demonstrations of techniques that can help lawyers work effectively with their child clients. Narrated by well-known actor and television star, Amy Brenneman, this video and its accompanying teaching materials combine the experiences of children's law experts around the nation sharing tips for a successful interview of a child client. This video is a useful tool for lawyers and law students who represent children in many areas of law including juvenile justice, child protection, special education, school suspension and expulsion, immigration, etc. Whether you are a career children's lawyer or it is your first child interview, we hope this helps improve and inform your practice to assist you in providing the highest quality representation to your child client.

The following articles are included to support this video:

- "The Client Quotient: Top 10 Rules of Effective Client Communication" by Michael P. Maslanka. Published in *ABA Child Law Practice*, Volume 21, No. 2, April 2002.
- "Better Lawyering: Using Body Language that Kids Trust" by Jackie Rankin. Published in *ABA Child Law Practice*, Volume 20, No. 5, July 2001.
- "Tips for Communicating with Children" by Claire Sandt. Published in *ABA Child Law Practice*, Volume 19, No. 10, December 2000.
- "In Practice: Ten Tips for Evaluating Body Language of the Abused Child" by Jacqueline A. Rankin. Published in *ABA Child Law Practice*, Volume 19, No. 7, September 2000.

In Practice

The Client Quotient: Top 10 Rules of Effective Client Communication

by Michael P. Maslanka

Whatever our practice area we all share one constant: the need to effectively communicate with our clients. The following rules help lawyers, not so much with their "IQ" as with their "EQ," their emotional quotient — the ability to understand clients' problems, empathize with them, provide options, give bad news, and still retain their trust and respect.

Rule 1: Lawyers Are Advisers, Not Consultants. A lawyer is an adviser, not a consultant. Some wag once defined a consultant as "someone who knows 10,000 pick-up lines but has never had a date." That's true. Technical expertise is simply not enough to be a good adviser; unlike a consultant, a lawyer must bridge the world of theory and apply it in developing concrete solutions for a client. This is a "home base" rule: When in doubt, rely upon it in all client communications.

Rule 2: "The difference between the right word and the almost right word is the difference between a lightning bolt and a lightning bug."

This quote from Mark Twain says it all. A slight shift in emphasis in communicating a difficult issue to a client can make all the difference between the client accepting or rejecting the counsel being given. Clients are willing to accept bad news if it is presented in a way that is palpable, understandable and confirms the lawyer is a friend and not an enemy. Remember: How you say something is just as important as what you say.

Rule 3: When Asked a Question, Answer It. Years ago, a client called and asked whether we would win a case, and if we lost, the range of damages. I pontificated with the utmost erudition on the vagaries of jury trials, the elements of damages and the like. In other words, I didn't have a clue. After 15 minutes of silence, the client simply said: "You haven't answered my question." He then said: "Maybe you don't know the answer, but of the five billion people on earth, you come closest to knowing." Then came a gentle reminder that he was paying me for my expertise and did not think that an answer to the question was unreasonable. While my feathers were ruffled, I learned the lesson.

Rule 4: For Goodness' Sake, Shut Up! Not the client, you. Lawyers often interrupt clients, talking over them, and ending what could be a fruitful dialogue. Some tend to be arrogant and pompous and want to impress the client with how much they know. Clients, however, often perceive this rush to talk as a reflection of inexperience and a lawyer being too anxious to prove his or her value. They also perceive it as not wanting to take the time to understand their problem. Remember: if you talk too soon, you won't get all the pertinent facts and your solution may not fix the problem.

Rule 5: Know Your Client. Psychologists tell us that there are a number of different personality types. A leading test in this area is the Birkman, which divides personality types into four groups. There are other tests. The point of all this research is not to find out what *your* personality type is, but the client's. Once you know that, you can then tailor your responses.

Rule 6: Optimism Goes a Long Way. In his astute book, *The Art of Advice*, Jeswald W. Salacuse, former dean of the Southern Methodist University School of Law, makes a telling point: An adviser whose advice is consistently negative is not as good as one who can explain the positive opportunities in a situation. A client will very quickly pick up on this; the person who can see all of the negatives may be more educated, but the person who can see all the possibilities is more experienced. Being optimistic is not being a Pollyanna; it is not adopting an ostrich-like

attitude of self-delusion; and it is not a willful refusal to see the obvious. The essence of optimism is developing and presenting options which will solve the client's problem.

Rule 7: Every Problem is an Opportunity. The Chinese character for danger is also the character for opportunity. We as lawyers need to embrace this notion in dealing with clients, especially when the client makes an error in judgment. One of the talents of effective advisors is to make the clients see the positive opportunities in a situation, to see the glass is half-full rather than half-empty, to view a problem as a chance for improvement rather than a certainty for disaster.

Rule 8: Respect Your Client's Opinion. From time to time, clients want you to do something that you believe is not the absolutely best tactic. Lawyers need to be especially careful, however, about concluding that every difference in judgment warrants the lawyer saying, "No, that is just wrong and will backfire." The ultimate "no" should be sparingly used, not unlike the use of salty language. When something is seldom used, the effect is greatly amplified when it is. Clients are often the very best source of strategy, tactics and information about how to solve a certain problem. We ignore their wisdom at our own risk.

Rule 9: The Client Makes Business Decisions, Not You. From time to time, clients want to put us in the position of making the decision for them. This comes from a variety of sources. Whatever its source, it is vitally important that the lawyer, at the outset, help the client understand the difference between a "legal" decision and a "business" one. This is a three-step process.

First, as a threshold matter, the lawyer needs to determine the approach the client prefers to take. Second, present all of the options to the client—that is, the options that will assist in solving the problem. Third, it is okay to tell the client what you would do, as long as the dividing line is clear. The question can be answered directly, but with a caveat. My preference is telling the client, "I'll take my lawyer's hat off for a minute and put on my [manager's] hat..." After this, however, the lawyer should refocus the client on all of the options that present themselves, not simply the one the lawyer would choose should he or she be in the driver's seat.

Rule No. 10: Manage Expectations

Learn how to manage a client's expectations. This is not to be confused with manipulating the client. Rather, it is making sure the client understands the legal process, comprehends what it entails and embraces a realistic view of the matter. And the verb "manage" is deliberately used; this rule involves an ongoing process, not a one-shot effort. You cannot effectively communicate with a client holding unrealistic expectations. He won't hear what you are saying.

Michael P. Maslanka is a partner at the Dallas, TX firm of Clark, West, Keller, Bultler and Ellis.

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Better Lawyering - Using Body Language That Kids Trust

by Jackie Rankin

Attorneys who work with children know how critical that first impression can be to establish a framework of trust for the adult-child negotiation. Just as the attorney is "reading" the child, the child, in turn, is sizing up the formidable adult. That, plainly, is body language at work. Thus, the smart attorney is one who avails himself of as many body language secrets as he can use professionally.

This article is intended to help build an easier interchange between the attorney and child client. Body language, let me warn you, is unconscious and unprogrammed. It is completely spontaneous. I am often asked, "Can I change my body language?" Yes, through conscious practice of new, *effective*, and silent movements and expressions. In time they become an unconscious habit, which is authentic body language.

Caution: faking is not genuine body language and smart kids (and dogs and cats) can read plastic behavior instantly. Don't try a Jolly Old Uncle Ted with a child—you'll bear the scars forever. I'm sure you will discover some ineffective ways you use body language to communicate. Take heart and be prepared to study yourself rigorously, honing out ineffective body language to build a silent image that conveys strong credibility. Retraining your own body language takes work.

One caveat: make all your movements slow and steady. Do not act abruptly (nor loudly), because the child must see you as kind, patient, and thoughtful.

Getting Started

How does a tired, overworked lawyer establish meaningful rapport with a child? First off, it's not easy. Wee ones can be tired, apprehensive, moody, and mistrustful—no easy person to negotiate with. Kids can be tough. That's for starters.

Next examine the setting—the room in which the meeting takes place, as well as colors in the room, gender of the attorney and the youngster, spacing of furniture and bodies, gestures used, and even smell that is distinctive both in the setting and with the people.

Now you are ready to survey *yourself* in the situation—the persuader, if you will. I've written a book about such an encounter in *Body Language in Negotiations and Sales* in which all the nonverbal variables of an encounter are explored. Transforming that book to the level of a child client, here are the top three variables every attorney should work with when dealing with a child. Bear in mind there are many more points to explore, but these are my top priorities when dealing with youngsters:

1-EYES

Since body language reveals your thoughts and emotions, try to think kind thoughts. Train the muscles around your eyes to relax to bring a pleasant, nonthreatening expression. Children like open eyes ("eyes wide open") and fear squinty eyes that are all scrunched up. Keep your gaze steady and don't hold a gaze too long. Do blink occasionally. I suggest you plant several small mirrors around the office and constantly check out your own facial expressions and eye behavior. Probably you will discover not all your movements are as bright and friendly as you had hoped and that some retraining is needed.

I find most adults have to be taught to bend over, come into the height ranges of the child to give him direct eye contact. Giving up your height also gives away some of your power and the child *knows* that. Do not be distracted if the child will not make eye contact with you. Adults, when rebuffed, often say to a child, "Look at me!" which gets poor results. Practice gentle patience and tolerance, please.

2- PERSONAL SPACE

Adults take up an inordinate amount of territory and often show their power by the amount of space they control. Children, at best, have a tiny amount of personal space and often that is controlled by others. If your initial encounter is loaded with emotionalism, think how belligerent your invasion of the child's personal territory must seem. Respect his space, please.

Let's check out the space bubble. Try poking your elbow into your waistline into your belt, extending the forearm. The tips of your fingers are the end of your own space bubble. Now cut that space in half and you have the miniscule size of the child's space bubble. Any time you invade his personal territory uninvitedly, you have set up hostile relations and you are an adversary.

The amount of space you choose between yourself and the child is important. When we are intimate, spacing goes from actually touching up to 18 inches; personal distance is 18 inches to four feet; social distance is 4 to 12 feet; and public distance ranges from 12 feet to 25 feet. I do not recommend touching initially and I do suggest that in the beginning you place yourself about a yardstick away. That signals this is a business meeting, not a personal one. If you are too far away, negotiations will lack personal rapport—too close signals a personal bonding that is not real. Be like the little bear and make it not too hot, not too cold, but just right.

3- FACIAL EXPRESSION

When you, the adult, approach the child, make sure your facial expression is pleasant. I don't mean a silly smile or a grin that is false: children read fake nonverbal communication very well and react to it in kind, so your facial expression must be genuine.

There are six universal facial expressions as researched by Paul Ekman: happiness, sadness, surprise, fear, anger, and disgust. Literally hundreds of variations of those basic expressions exist, but they are only enhancements of the fundamental expression. The eyes, forehead, and mouth largely tell us what the child is experiencing emotionally and cognitively. My book, *Body Language: First Impressions*, gives you more information about this subject.

The fear expression which the child may be displaying shows raised and drawn-together brows, short horizontal or vertical wrinkles on the forehead, eyes opened with tension in the lower lids, mouth corners downwardly drawn back, lips stretched, and the mouth may or may not be open. When you see this fear displayed, think of it as a yellow light. Slow down your talk and movements, and delay all negotiations until the child looks calmer. Do not be offended if the child will not give you eye contact or turns her head away from you pointedly. Assume the child is not ready to interact with you and don't push in an agitated or hurried manner, no matter how busy your schedule.

So much for the child. How about you? Is your basic expression grim? Are you overdoing your smile? Do your eyes seem threatening? Remember, a neutral facial expression is considered negative, so you want to display a winning face with a modicum of vitality to it. (Curiously enough, primates live by the same facial expression rules.) The "win" face displays raised eyebrows, wide open eyes, posture that includes a firmly jutted neck posture, and a slightly raised chin. The losing face has a furrowed brow, slightly squinted eyes, and the head is generally held down accompanied by sagging shoulders.

There you have it: three basic tips that will help build credibility with a child. There are many other variables to explore: touching, colors you wear, gender displays, how to arrange your office or the meeting room—on and on almost into infinity.

Body language, once you begin to be aware of it, is fascinating. You'll never see the world nor people the same once you begin to use it.

Jacqueline A. Rankin, Ed.D., has spent 14 years researching body language in abused children. She served as the executive director of the Child Abuse Prevention Program in southern California. She is available for training, speaking to groups, or private consultations. She may be reached at 703/866-0084 or jacki.rankin@verizon.net. Web site: www.jrbodylanguage.com

Tips for Communicating With Children

by Claire Sandt

Ask Anne Graffam Walker, Ph.D., for advice on working with young children in the legal system and she'll tell you to watch what you say—very carefully! As a forensic linguist, she's spent years studying language development in young children and courtroom communication.

"If we take responsibility for the way we question and talk to children, they can tell us what happened in a legally responsible way and accurately," said Walker at a recent National Association of Counsel for Children conference. What Walker said can help you take responsibility for the way you talk to young children:

Works in progress

Learning to use language is a bit like learning to drive a car. For adults, driving cars has become unconscious. You don't have to think about doing it. Language is the same. But there's one critical difference: you can remember how you learned to drive a car; you can't remember how you acquired your native language. It's unconscious how you got and learned to use language. Like learning to drive, acquiring and using language is a complex process. Adults are highly skilled with language. Children, however, are works in progress.

When working with court-involved children, recognizing and accommodating differences in language skills is critical. For these children, lack of mastery over language can be compounded by the trauma they're experiencing and their unfamiliarity with the legal process.

Ability to express thoughts

When children are involved in unfamiliar situations, the experience is stressful and difficult. Their ability to think may be seriously harmed. Often the consequences to providing information are great (e.g., dad gets hauled off to jail). These effects, combined with children's developing language skills, can result in miscommunication. Children may not say what they mean. They may say what they think the questioner wants to hear. They may omit information because they think adults already know it ("Adults know everything.").

Help the child communicate as accurately as possible. Let the child know you are there to listen and there are no right or wrong answers. Tell the child to let you know when something is unclear. Ask the child to tell you those things he thinks you already know, or things he thinks are not important.

View of the world

Young children view the world through a narrow lens. They only see what they have learned to see and what they know. They are very concrete, literal, and egocentric. Taking another's perspective is difficult and they cannot always figure out what someone means. This makes it difficult for them to identify when a misunderstanding exists.

Consider the following dialogue between an adult interviewer and a 5-year-old child:

Q. Did you ever put your mouth on daddy's penis?

A. No

Q. Why did you tell your mom that your dad put his penis in your mouth?

A. My brother told me to. (Out goes the case!)

The underlying premise in the two questions is the same: dad's penis was in child's mouth. However, the agent (who did what) changes. In the first question, the agent is the child (Did *you* ever put your mouth). The child answers "no." In the second question, the agent changes to the father (Why did . . . *your dad* put). The child misses the change, and continues to focus on the *you*, seeing herself as the agent (Why did *you* tell your mother). She is handicapped by her narrow view of what she's hearing, and doesn't understand that listeners misinterpret what she says.

Ability to interpret words

The language of the courtroom is second nature to you. For children, legal terms have a meaning of their own. Consider the following legal terms and meanings children assign them:

assault: salt and pepper

testify: taking a test

jury: jewelry

court: place to play basketball; tennis court

parties: birthday party

hearing: thing you do with your ears

charges: Visa, MasterCard

case: briefcase

swear: naughty words

Legal terms are not the only words that create confusion. Common adult words are also easily misunderstood:

Adult words: **Better for child:**

male and female girl or boy

opportunity chance

subsequent later

identify point to

describe tell

at this point in time now

Stop and think about the language you use around a child. Are there terms the child may not know or misunderstand? Don't be afraid to ask the child about the meaning of words. Young children think adults know what they know. Check it out. Ask "What does a ___ do? What does ___ mean?"

Ability to use words

Understanding words is only part of the puzzle. Putting them together and using them appropriately presents a new set of tasks for children to master. Especially troublesome for children are:

- prepositions that deal with space: underneath, behind, on top of, beside
- prepositions that deal with time: before, after
- indexicals (words that point): here/there, it, this/that, come/go, bring/take
- personal pronouns: I, you, him, her, we

Children also have difficulty understanding that some words are affected by context (e.g., top of counter; my pink top). And quick changes of topic—a tactic often used with adult witnesses—can easily throw children off. Be clear when you are changing subjects (e.g., “We were just talking about _____. Now we’re going to talk about _____”).

When you’ve gotten into a bind, always look to language first. Was there something in the child’s answer you didn’t understand? Was there something linguistically that went wrong?

To avoid getting into trouble in the first place:

- Be specific. If you mean Sam, say Sam (not him).
- Repeat proper names and places.
- Repeat phrases from earlier statements and questions.
- Don’t take the meaning of a child’s pronouns for granted (Ask who “he” refers to).
- Frame questions to establish topics (e.g., “I’m just a little mixed up so I’m going to ask some questions.” “I’m not sure who played on the swings. . . .”)
- Be curious. Find out what the child means by certain words (e.g., intercourse)

Carefully frame concept questions. Children often confuse the following concepts:

Age: *Is she older than me?* (Children often associate height with age; the taller the older)

Size: *Was he tall?* (What’s short to an adult may be tall to a child).

Kinship: *Is Aunt Jane your mother’s sister or your father’s sister?* (Children often don’t believe aunts can be sisters; they believe only they can have sisters/brothers).

Time: *When did she enter the house?* (Time is one of the most difficult concepts for children to grasp. Adults are preoccupied with time and expect children to communicate in terms of time. *Today, yesterday, and tomorrow* are especially confusing. Prevent confusion by asking concrete questions: Where were you then? Was the TV on? What did you have on? What was it like outside?)

Ability to decipher language and complex sentences

Children have trouble remembering long, complex questions from beginning to end. Consider the following exchange:

Q. About how long was it that you saw his penis?

A. About average: six inches.

A lot is going on in the question. As the child’s answer reveals, the child got lost. The middle part of the sentence (that you saw) dropped out, leaving the child to think the questioner was asking about the length of the penis, not how long she saw it. Pay attention to what the child is hearing. Avoid confusion by breaking sentences down into simple constructions that include one main thought.

Conclusion

What the child tells you becomes facts that decision makers rely on to decide what will happen in a case. Therefore, it is essential to help children provide information as accurately as possible. Start by taking a close look at the questions you ask. As Dr. Walker aptly reminds: “Sometimes the questions are incompetent, not the child.”

This article is based on Dr. Anne Graffam Walker’s presentation, “Interviewing Children: A Linguistic Perspective,” at the National Association of Counsel for Children’s 23rd National Conference in Washington, DC, November 3, 2000. Mark your calendars for next year’s NACC conference in San Diego, September 29-October 2, 2001. For more information, contact the NACC, 888/828-NACC.

Scarpology Exercise

1. Look at the word above. Do you know what it means?
2. On a sheet of paper, write its definition (off the top of your head, no looking it up!).
3. Time's up. What did you come up with?

At a recent National Association of Counsel for Children Conference, Dr. Walker asked the audience to define scarpology. Definitions included:

- n the study of scars.
- n the study of carpooling.
- n the study of escarpments.
- n the art of apologizing.

Definition

The true definition: the science of inducing information from the sole of the foot!

How'd You Do?

According to Dr. Walker, this exercise is a concrete example of facing a word you don't understand. Chances are you experienced various feelings when asked to define the word: stupid, confused, worried, annoyed. You worked your way through it though by breaking it down and applying a strategy.

Lesson

Now imagine what it must be like for a child involved in the legal system. Not only does the child struggle with unknown words, but the stress of the experience and the unfamiliar situation compromises the child's ability to think and communicate effectively.

Resource

For an in-depth look at language and questioning children, see Ann Graffam Walker's book, *Handbook on Questioning Children: A Linguistic Perspective*, 2nd ed., published by the American Bar Association Center on Children and the Law.

To order, contact the ABA Service Center, 800/285-2221.

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In Practice

Ten Tips for Evaluating Body Language of the Abused Child

by Jacqueline A. Rankin

Abused children don't always readily verbalize their abuse. In the absence of a verbal report, body language can be rich with meaning. When questioning children, legal and social work professionals need to consider body language variables just as closely as they listen to children's words. The following 10 tips are designed to help legal and social work professionals evaluate body language in abused children:

1. All abused children do not behave in the same way. I divide them into the following types:

Type I: Weak, submissive, openly vulnerable.

Type II: Aggressive, belligerent, blatantly defiant.

Type III: A bewildering combination of I and II—one minute quiet and submissive, the next, a noisy bundle of fists and loud energy.

2. Be on the lookout for passive eye behavior that stares vacantly, or aggressive eye behavior that literally glares belligerently at most times. Either behavior may tell of inner turmoil.

3. Does the child guard his Taboo Zone? (that is the area of the body where the genitalia or private parts are contained: the groin for boys and chest area for girls). Sometimes when anxious or frightened, the child will suddenly clutch his Taboo Zone protectively or rub it comfortingly.

4. Watch for signs of self-comfort. (We comfort ourselves when no one else will.) Signs include:

Rubbing one's upper arms—that's where we feel fear first.

Stroking of one's face constantly.

Hands rubbing or "washing" each other.

Rubbing, stroking, or clutching the Taboo Zone.

5. Look for micro-momentary facial expressions and eye behavior. In a short fraction of one second, you may see a negative expression flash across the child's face and then it disappears rapidly. Remember that fraction of a second: it tells the truth. I've seen murderous looks, suicidal looks, and of course, a heightened look of deep depression.

6. Sometimes when the child is lying, he may also be sweating, taking rapid breaths, or swallowing too often. The pupils, in some instances, will be small, contracted. Sweating and contracting the pupils cannot be self-induced: they are autonomic nervous system signs, as is flushing or blanching of the skin.

7. Does the child flinch if you touch her? Does she retreat from you? Or, conversely, if she is Type II or III, is her reaction to hit you belligerently? These are reactions from children who are accustomed to abusive touches.

8. Does the child use territory in a strange way? Does she sit in the corner, away from people, knees to chin, arms binding up the frightened body? Does she avoid being near others? Is her personal body space impossibly small?

9. **False smiles attempt to hide anger, fear, distress, or disgust.** They are also survival skills children adopt to survive in society. Only the mouth section of the face is involved: the forehead and eyes may relay opposite messages. We can control our mouths much more easily than the eyes. Look for lip corners pulled horizontally toward the ears making a rectangle shape. The upper lip may be tensed and the mouth sometimes is slightly open.

10. Signs of abused children in the courtroom:

n Indiscriminately friendly, responding with appeasing behavior, and smiling at inappropriate moments.

n The disparity between the child's thoughts, feelings, and fantasies and the overt behavior of the child.

n Lying or hiding the truth about an injury. Showing discomfort regarding the injury and often at a loss to explain the injury.

Jacqueline A. Rankin, Ed. D, has spent 14 years researching body language in abused children. She also served as the executive director of the Child Abuse Prevention Program in southern California. She is available to consult in child abuse cases, and can assist with case preparation and jury selection. You can reach her by phone, 703/866-0084, or e-mail: rankinj@potomacnet.com

Resource:

For additional tips on body language in abused children, see Rankin's new book, *Body Language of the Abused Child*, featuring 36 variables of abuse. For more information, visit Rankin's website: <http://www.jrbodylanguage.com>



EXECUTIVE ORDERS & NDAA



Changes

- Two principle sources of change
 - National Defense Authorization Act
 - FY12
 - FY13
 - FY14

 - Executive Orders
 - 13643
 - 13669
 - August 2012
 - 2014



MRE Supplement

**SUPPLEMENT TO
MANUAL FOR
COURTS-MARTIAL
UNITED STATES
MILITARY RULES OF EVIDENCE
(2012 EDITION)**



M.R.E. Key changes

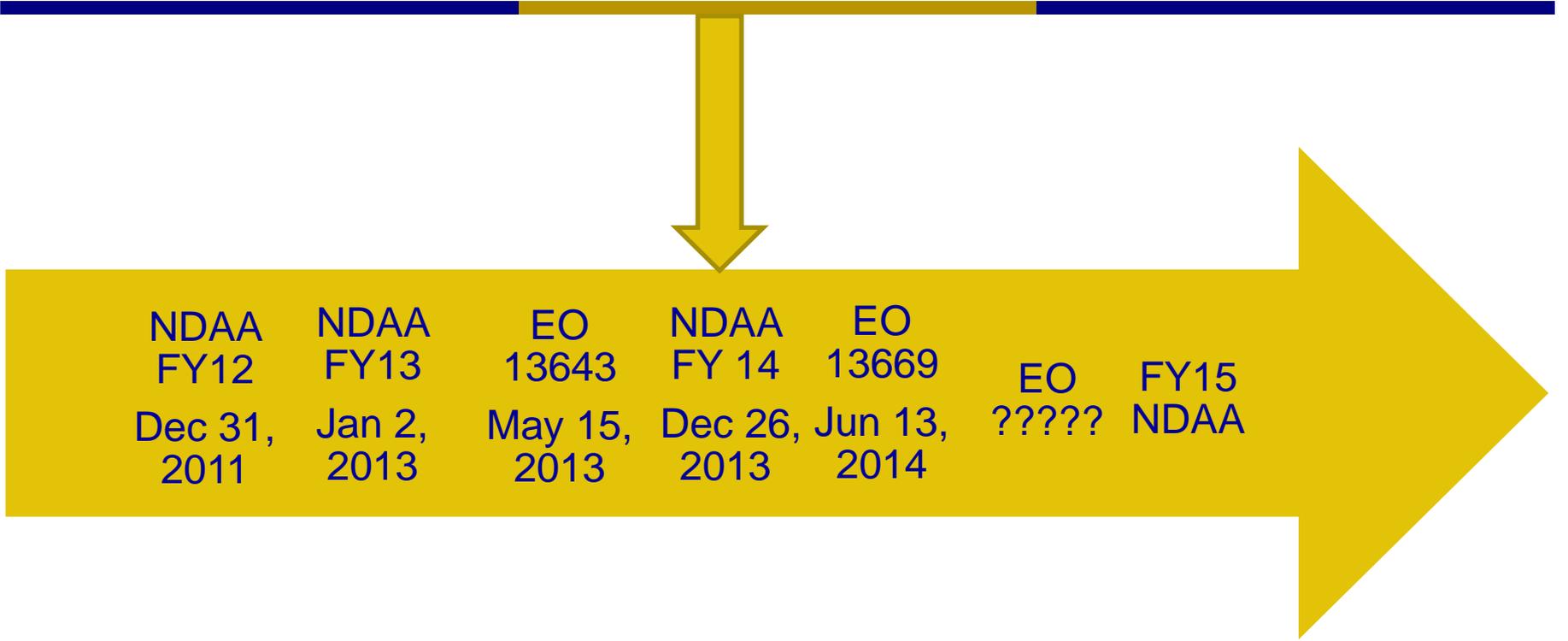
- All Military Rules of Evidence were amended for stylistic reasons and to align them with the Federal Rules of Evidence.
- “shall” becomes “will.”
- “reasonably believed” becomes “reasonably suspected.”
- “authorization to search” becomes “search authorization.”
- Many of the changes are changes to the rule title.

- Mil. R. Evid. 312(f) adds a line at the end of the subsection to conform with CAAF’s holding in *United States v. Stevenson*, 66 M.J. 15 (C.A.A.F. 2008).

- Mil. R. Evid. 314(c) limits the ability of a commander to search persons or property upon entry or exits from the installation alone, rather than anywhere on the installation, despite the indication of some courts in dicta that security personnel can search a personally owned vehicle anywhere on a military installation based on no suspicion at all.



Changes

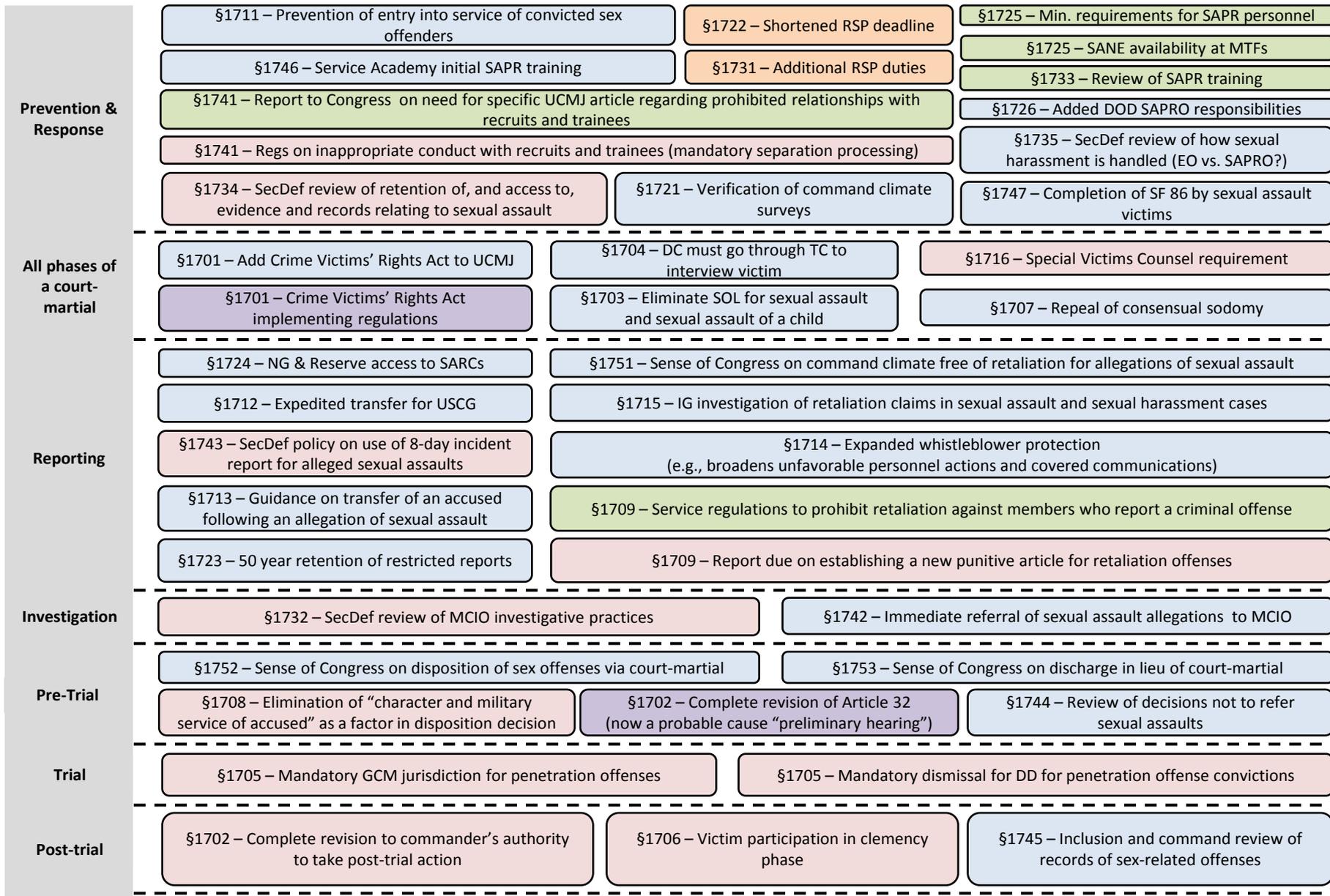


NDAAs FY12	NDAAs FY13	EO 13643	NDAAs FY 14	EO 13669	EO ?????	FY15 NDAAs
Dec 31, 2011	Jan 2, 2013	May 15, 2013	Dec 26, 2013	Jun 13, 2014		



NDAA FY14

- Signed by the President 26 December 2013
- More than 30 sections related to military justice
- Substantial changes to:
 - Article 32
 - Article 46
 - Article 60
- Key dates:
 - December 26, 2013 (Immediate)
 - April 25, 2014 (120 days)
 - June 24, 2014 (180 days)
 - December 26, 2014 (1 year)

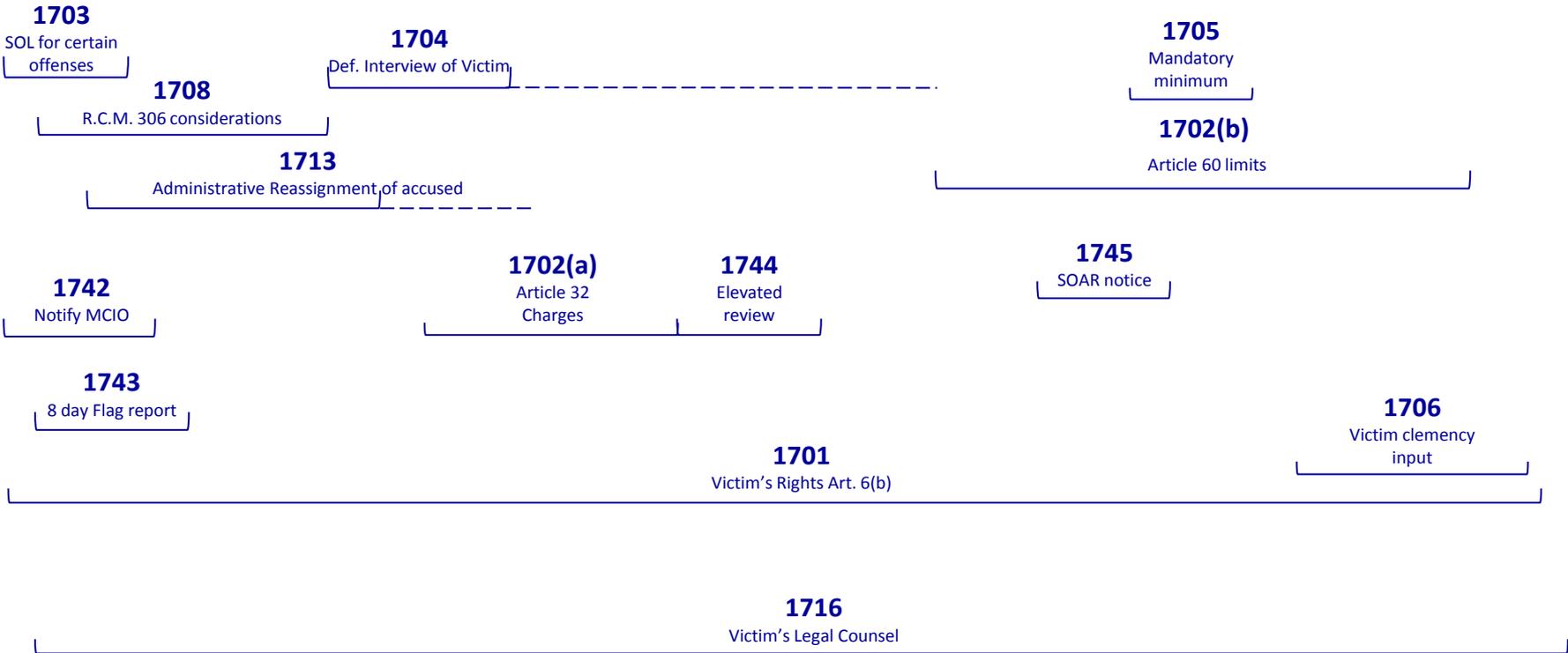


Effective dates





Timeline of Case





KEY CHANGES FY14

➤ Changes of Primary Concern

1) Convening Authority Article 60 clemency power

- Significantly impacted by Section NDAA FY14 Sec. 1702
- Offenses occurring on or after 24 June 2014
- Except "Qualifying Offenses"

2) Elevated Review of decision not to refer certain charges

- Following Article 34 Advice
- Review by ISIC or SECNAV
- Cases involving:
 - Rape or sexual Assault (Article 120)
 - Forcible sodomy (Article 125)
 - Attempt to commit these (Article 80)

3) Changes to Article 32

- Offenses occurring on or after 26 Dec 2014
- Changed purpose
- Changed rules



Clemency

1) Convening Authority Article 60 clemency power

- Significantly impacted by Section NDAA FY14 Sec. 1702
- Offenses occurring on or after 24 June 2014
- Except "Qualifying Offenses"



Section 1702 (Article 60)

(b) ELIMINATION OF UNLIMITED COMMAND PREROGATIVE AND DISCRETION; IMPOSITION OF ADDITIONAL LIMITATIONS.

Subsection (c) of section 860 of title 10, United States Code (article 60 of the Uniform Code of Military Justice), is amended to read as follows:

“(2)(A) Action on the sentence of a court-martial shall be taken by the convening authority or by another person authorized to act under this section. Subject to regulations of the Secretary concerned, such action may be taken only after consideration of any matters submitted by the accused under subsection (b) or after the time for submitting such matters expires, whichever is earlier.

“(B) Except as provided in paragraph (4), the convening authority or another person authorized to act under this section may approve, disapprove, commute, or suspend the sentence of the court-martial in whole or in part.

“(C) If the convening authority or another person authorized to act under this section acts to disapprove, commute, or suspend, in whole or in part, the sentence of the court-martial for an offense (other than a qualifying offense), the convening authority or other person shall provide, at that same time, a written explanation of the reasons for such action. The written explanation shall be made a part of the record of the trial and action thereon.



Section 1702 Cont...

“(3)(A) Action on the findings of a court-martial by the convening authority or by another person authorized to act under this section is not required.

“(B) If the convening authority or another person authorized to act under this section acts on the findings of a court-martial, the convening authority or other person—

“(i) **may not dismiss any charge or specification**, other than a charge or specification for a qualifying offense, by setting aside a finding of guilty thereto; or

“(ii) **may not change a finding of guilty to a charge or specification**, other than a charge or specification for a qualifying offense, to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge or specification.

“(C) If the convening authority or another person authorized to act under this section acts on the findings to dismiss or change any charge or specification for an offense (other than a qualifying offense), the convening authority or other person shall provide, at that same time, a written explanation of the reasons for such action. The written explanation shall be made a part of the record of the trial and action thereon.



Section 1702 Cont...

“(D)(i) In this subsection, the term ‘qualifying offense’ means, except in the case of an offense excluded pursuant to clause (ii), an offense under this chapter for which—

“(I) the maximum sentence of confinement that may be adjudged does not exceed two years; and

“(II) the sentence adjudged does not include dismissal, a dishonorable or bad-conduct discharge, or confinement for more than six months.

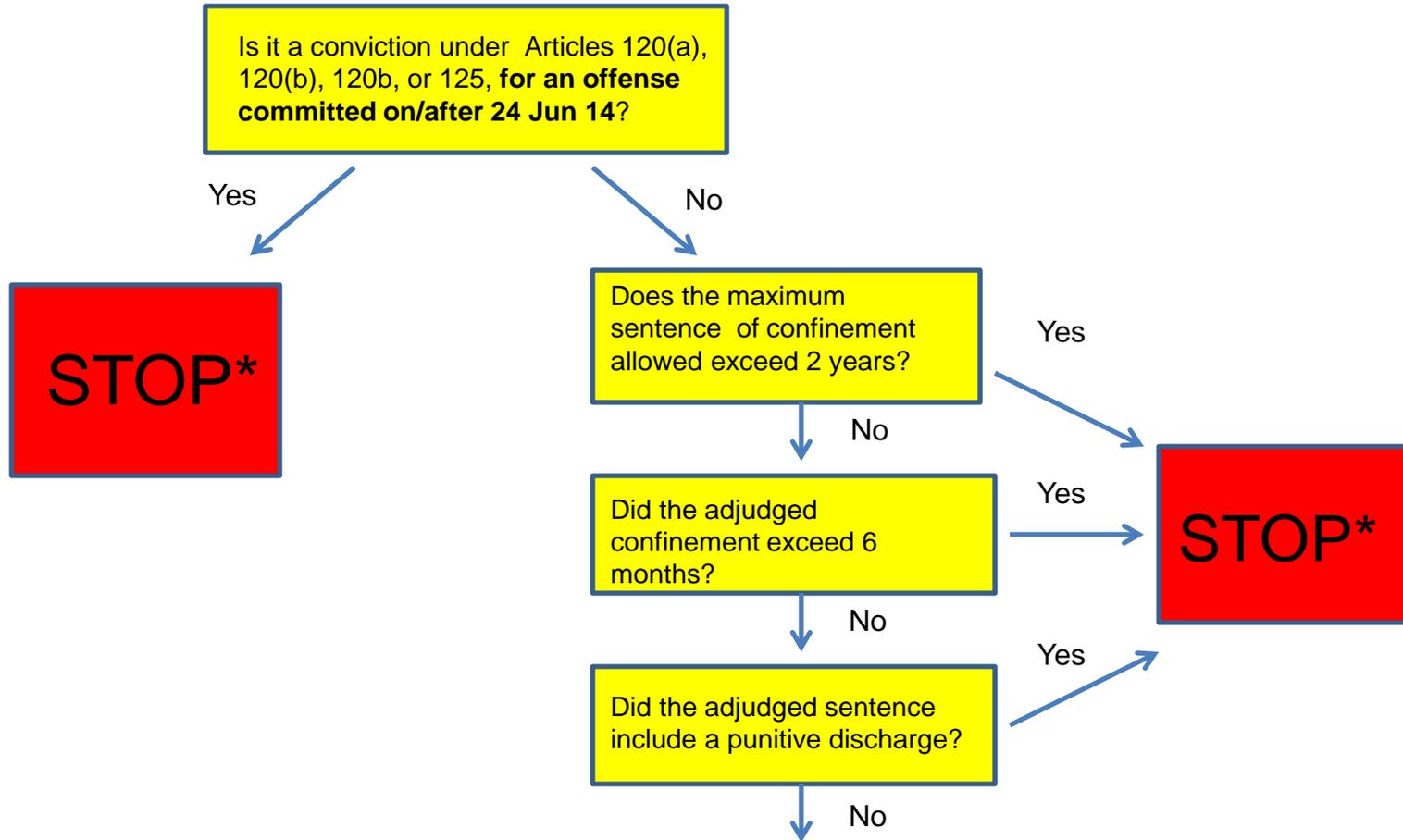
“(ii) Such term does not include any of the following:

“(I) An offense under subsection (a) or (b) of section 920 of this title (article 120).

“(II) An offense under section 920b or 925 of this title (articles 120b and 125).

“(III) Such other offenses as the Secretary of Defense may specify by regulation.

Article 60(c)(3) Findings



Convening authority may:

1. Change a finding of guilt to a LIO; or
2. Disapprove the finding of guilt and
 - a. Dismiss the specification or charge if appropriate, or
 - b. Direct a rehearing in accordance with R.C.M. 1107(e)

If the CA acts on findings, the CA shall provide, at the same time, a written explanation for such action.

***The CA is authorized to order a rehearing under R.C.M. 1107(e) if the findings were set aside by the Court of Criminal Appeals.**



Section 1702 Cont...

“(4)(A) Except as provided in subparagraph (B) or (C), the convening authority or another person authorized to act under this section may not disapprove, commute, or suspend in whole or in part an adjudged sentence of confinement for more than six months or a sentence of dismissal, dishonorable discharge, or bad conduct discharge.

“(B) Upon the recommendation of the **trial counsel**, in recognition of the substantial assistance by the accused in the investigation or prosecution of another person who has committed an offense, the convening authority or another person authorized to act under this section shall have the authority to disapprove, commute, or suspend the adjudged sentence in whole or in part, even with respect to an offense for which a mandatory minimum sentence exists.

“(C) If a **pre-trial agreement** has been entered into by the convening authority and the accused, as authorized by Rule for Courts–Martial 705, the convening authority or another person authorized to act under this section shall have the authority to approve, disapprove, commute, or suspend a sentence in whole or in part pursuant to the terms of the pre-trial agreement, subject to the following limitations for convictions of offenses that involve a mandatory minimum sentence:

“(i) If a mandatory minimum sentence of a dishonorable discharge applies to an offense for which the accused has been convicted, the convening authority or another person authorized to act under this section may commute the dishonorable discharge to a bad conduct discharge pursuant to the terms of the pre-trial agreement.

“(ii) Except as provided in clause (i), if a mandatory minimum sentence applies to an offense for which the accused has been convicted, the convening authority or another person authorized to act under this section may not disapprove, otherwise commute, or suspend the mandatory minimum sentence in whole or in part, unless authorized to do so under subparagraph (B).”.



Other considerations

➤ Issues:

– Language of Section 1702

- (3)(B)(ii) may not change a finding of guilty to a charge or specification, other than a charge or specification for a qualifying offense, to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge or specification.
- (3)(C) If the convening authority...acts on the findings to dismiss or change any charge or specification for an offense (other than a qualifying offense), the convening authority...shall provide, at that time, a written explanation of the reasons for such action.

➤ Charges covering both pre 24 June and post 24 June offenses?

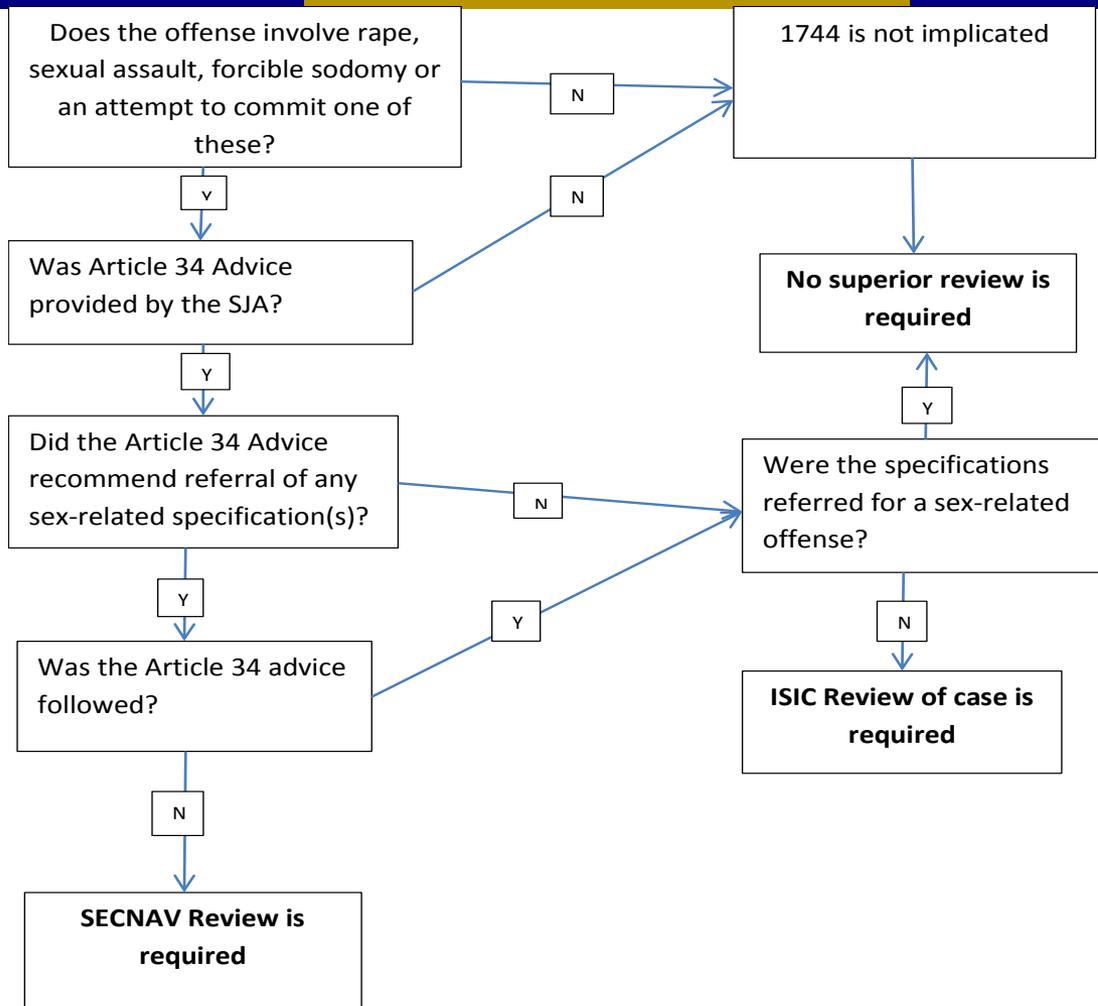
- Scope of clemency?
- What advice?
- Consequences?



ELEVATED REVIEW

2) Elevated Review of decision not to refer certain charges

- Following Article 34 Advice
- Review by ISIC or SECNAV
- Cases involving:
 - Rape or sexual Assault (Article 120)
 - Forcible sodomy (Article 125)
 - Attempt to commit these (Article 80)





Other considerations

- Charging decisions
 - ALNAV has an exception → contingency charges
- Jurisdiction over charges
 - Does Art 32 CA have jurisdiction over certain offenses
 - Section 1705 NDAA FY14 limits jurisdiction over some offenses to GCM
- SA-IDA



Article 32

3) Changes to Article 32

- Offenses occurring on or after 26 Dec 2014
- Changed purpose
- Changed rules



Article 32 Development & Changes

Original Article 32

No charge or specification may be referred to a general court-martial until a thorough and impartial investigation of all matters set forth therein has been made. This investigation shall include inquiry as to the truth of the matter set forth in the charges, consideration of the form of the charges, and a recommendation as to the disposition which should be made of the case in the interest of justice and discipline. (Art. 32, 2012 MCM)

...full opportunity shall be given to the accused to cross-examine witnesses against him if they are available and to present anything he may desire in his own behalf, either in defense or mitigation, and the investigation officer shall examine available witnesses requested by the accused.

Investigating officer – commissioned officer not the accuser...should be an officer in the grade of major or lieutenant commander or higher or one with legal training. (R.C.M. 405 and discussion)

FY14 National Defense Authorization Act, section 1702

New Article 32

No charge or specification may be referred to a general court-martial for trial until completion of a preliminary hearing. The purpose of the hearing shall be limited to the following: (A) Determining whether there is probable cause to believe an offense has been committed and the accused committed the offense. (B) Determining whether the convening authority has jurisdiction over the offense and the accused. (C) Consideration of the form of charges. (D) Recommending the disposition that should be made of the case. (Art. 32, Sec. 1702 FY14 NDAA)

The accused may cross-examine witnesses who testify at the preliminary hearing and present additional evidence in defense and mitigation, relevant to the limited purposes of the hearing...

A victim may not be required to testify at the preliminary hearing. A victim who declines to testify shall be deemed to be not available for the purposes of the preliminary hearing.

Hearing officer – preliminary hearing shall be conducted by an impartial judge advocate certified under Article 27(b) whenever practicable or in exceptional circumstances in which the interests of justice warrant, by an impartial hearing officer who is not a judge advocate. (Art. 32)



Section 1702(a)

WHAT'S NEW IN THE 32?

- What Offenses?
 - All offenses occurring on or after 26 December 2014
- Preliminary Hearing Officer (PHO)
 - Shall be Judge Advocate who is equal to or senior in grade to counsel for gov't and detailed defense counsel
- Purpose of Hearing
 - Probable Cause a crime was committed and accused did it
 - Jurisdiction over offense and accused
 - Form of the Charges
 - Recommend disposition



Role of the PHO

- Probable cause determinations
- Form of the charges
- Recommendation as to disposition

- What can the PHO do?
 - Question witnesses called by either side
 - Determine evidence is relevant (tell the government to subpoena it)
 - Indicate where more information would assist PHO
 - Stop either side from violating the applicable rules of evidence
 - Stop the hearing going beyond the established purpose
- What can't the PHO do?
 - Subpoena documents
 - Dictate the form of the evidence or means of testimony
 - Violate rights (Accused or victim)
 - Become an advocate for either side



R.C.M. 405

New (New) Rule 405

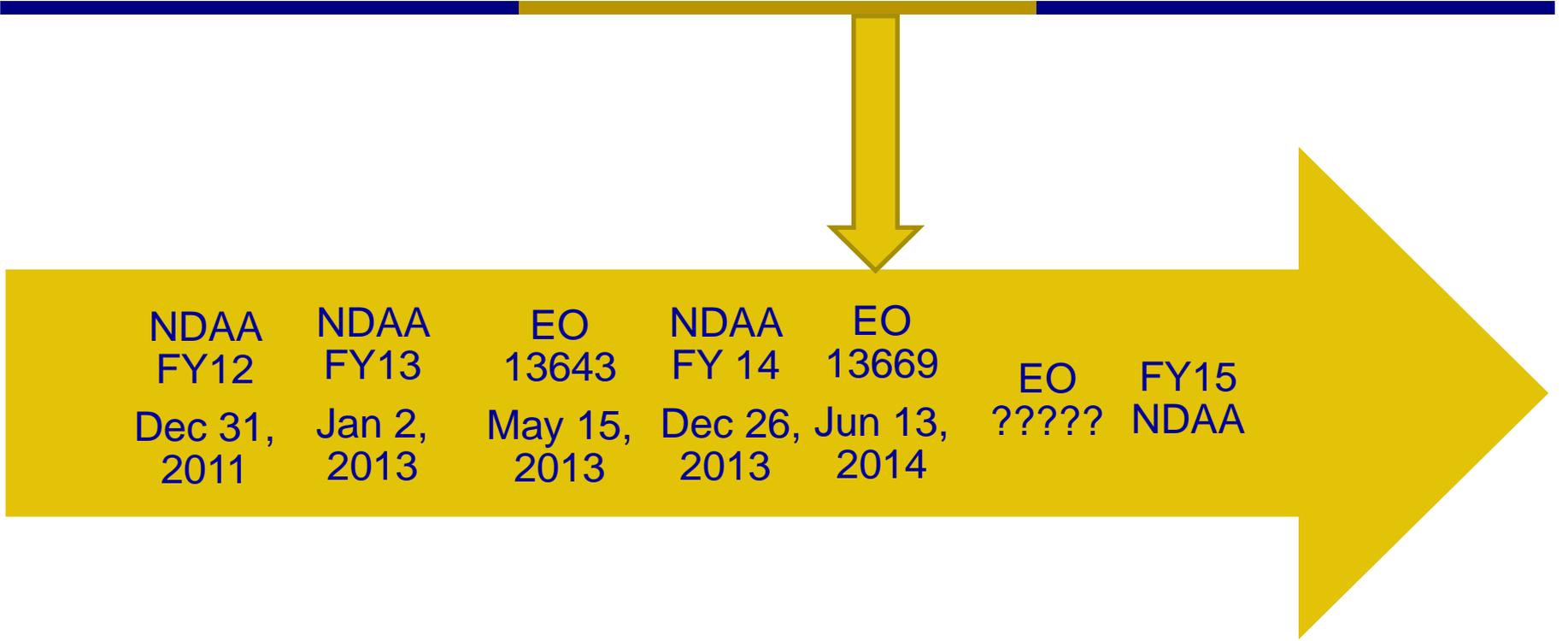
Contains specific instructions related to M.R.E. 412

Specifically excludes constitutional basis as reason to introduce evidence (b)(1)(C), but allows introduction of evidence related to exceptions (b)(1)(A) and (B)

Requires strict compliance with procedural obligations by both sides



Changes



NDAA FY12	NDAA FY13	EO 13643	NDAA FY 14	EO 13669	EO ?????	FY15 NDAA
Dec 31, 2011	Jan 2, 2013	May 15, 2013	Dec 26, 2013	Jun 13, 2014		



EO 13669

- Signed 13 June 2014
- R.C.M. 405
- R.C.M. 703
- R.C.M. 1103
- R.C.M. 1105A
- R.C.M. 1106
- R.C.M. 1107
- R.C.M. 1306

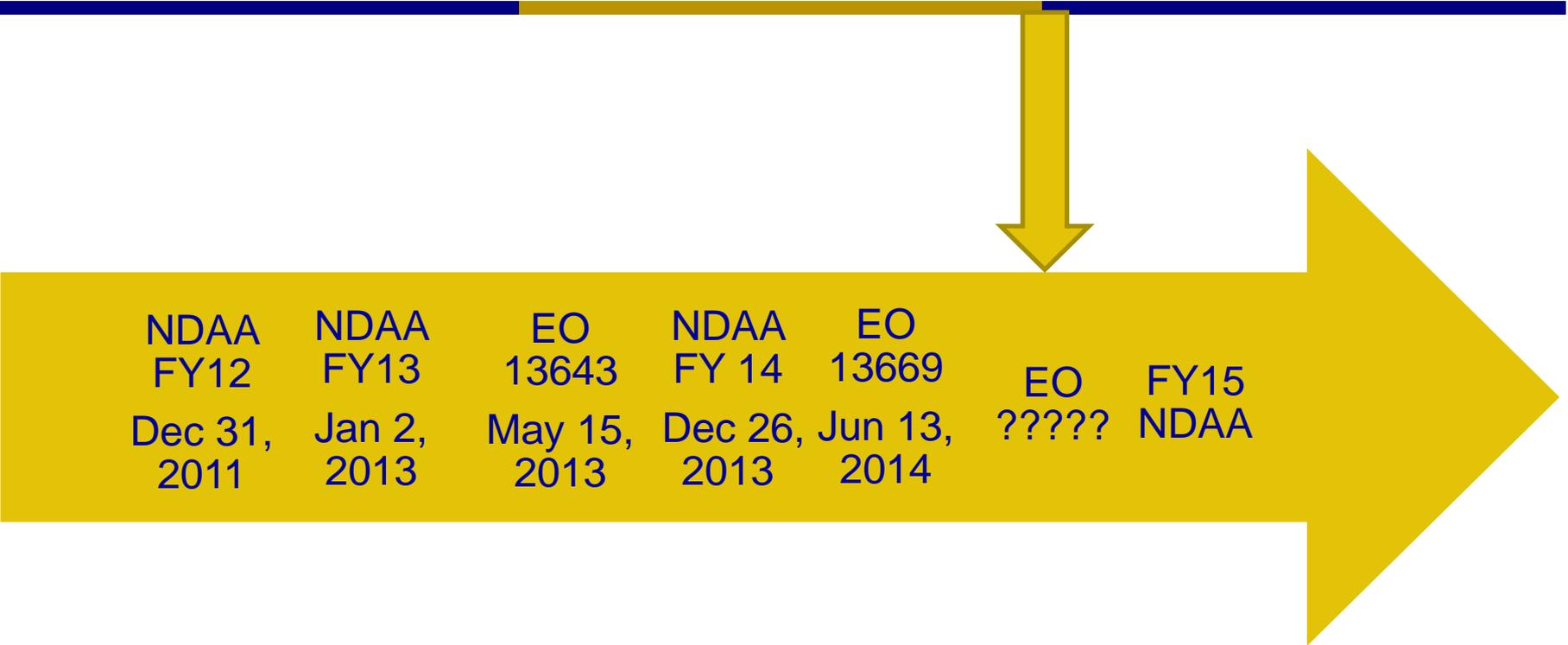


New R.C.M.

- a newly created R.C.M. 1105A which allows the victim of a crime to submit matters to the convening authority for consideration after sentencing. R.C.M. 1103(g)(3) defines “victim” and provides details related to receipt of a copy of the record of trial as provided by Article 54(e). R.C.M. 1107(b)(3) adds language in subsection (B)(iii) that precludes matters of the victim’s character, outside any evidence admitted at trial, from being considered by the convening authority when taking action in clemency.



Changes



NDAA FY12 Dec 31, 2011	NDAA FY13 Jan 2, 2013	EO 13643 May 15, 2013	NDAA FY 14 Dec 26, 2013	EO 13669 Jun 13, 2014	EO ?????	FY15 NDAA
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Pending EO

➤ August 2012 EO...Pending

- a) R.C.M. 201(c) contempt power
- b) R.C.M. 307(c)(3) Article 134 terminal elements
- c) R.C.M. 307(c)(4) unreasonable multiplication clarified
- d) R.C.M. 405(g)(1)(A) defense counsel contact with victims of sex-related offenses
- e) R.C.M. 701(e) defense counsel contact with victims of sex-related offenses
- f) R.C.M. 703(a) defense counsel contact with victims of sex-related offenses
- g) R.C.M. 906(b)(12) remedies for the unreasonable multiplication
- h) R.C.M. 907(b)(3) unreasonable multiplication
- i) R.C.M. 916(b)(1) mistake of fact as to consent
- j) R.C.M. 916(b)(3) mistake of fact as to age
- k) R.C.M. 916(b)(4) mistake of fact as to consent (deleted)
- l) R.C.M. 916(j)(2) child sexual offenses
- m) R.C.M. 916 (j)(3) (deleted)
- n) R.C.M. 920(e)(5)(D) mistake of fact as to consent
- o) R.C.M. 1003(c)(1)(c) multiple offenses
- p) R.C.M. 1004(c)(7)(B) enactment of UCMJ Article 120b
- q) R.C.M. 1004(c)(8) enactment of UCMJ Article 120b
- r) R.C.M. 1004(c)(9) aggravating factors for capital offense



Pending EO

- Provides additional clarification and analysis

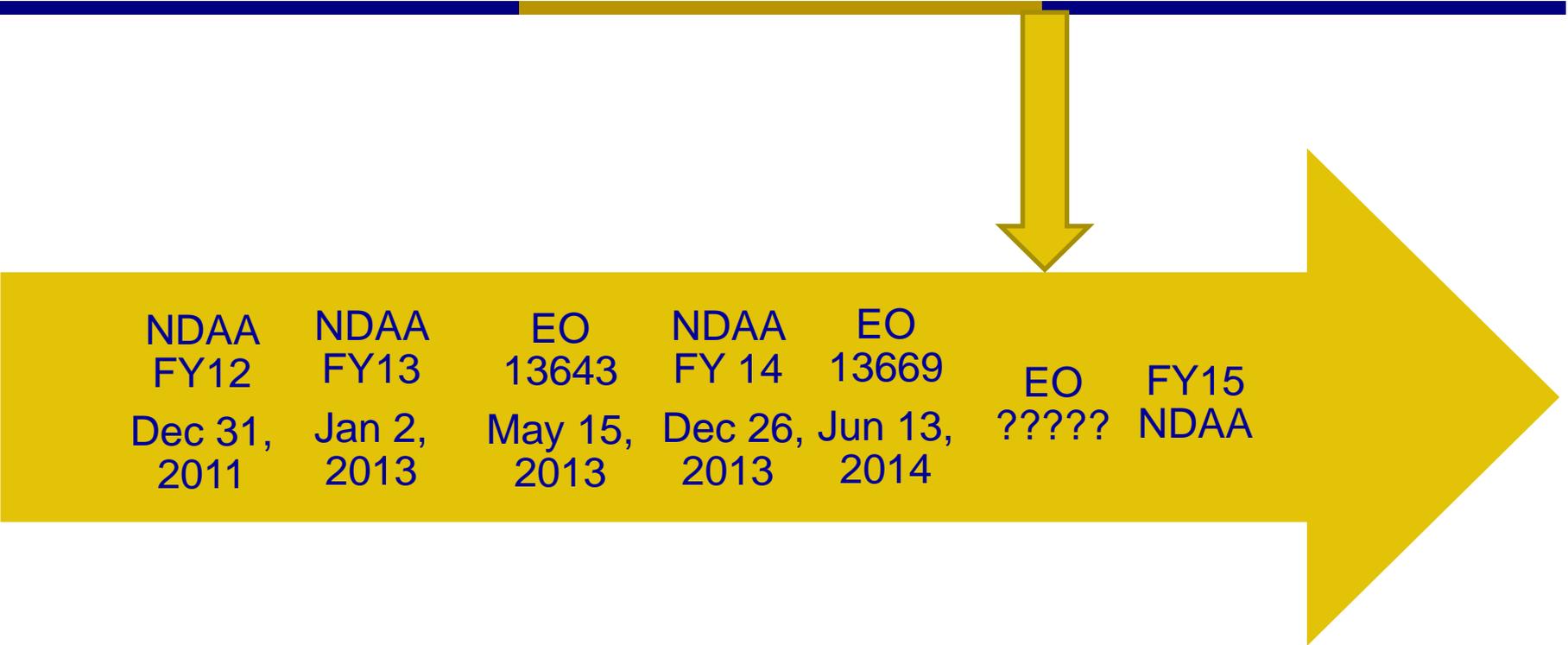
- Provides sample specifications for
 - Article 120
 - Article 120b
 - Article 120c

- Updates rules based on case law

- Incorporates NDAA changes from FY12 – FY14 including changes related to sodomy (Article 125), Mandatory minimum sentences, changes in statute of limitations, and



Changes



NDAA FY12 Dec 31, 2011	NDAA FY13 Jan 2, 2013	EO 13643 May 15, 2013	NDAA FY 14 Dec 26, 2013	EO 13669 Jun 13, 2014	EO ?????	FY15 NDAA
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2014 EO (with JSC)

➤ 2014...under review...

➤ Part II amendments

- (a) R.C.M. 201(f)(1)
- (b) R.C.M. 201(f)(2)
- (c) R.C.M. 305(i)(2)(A)(i)
- (d) R.C.M. 305(i)(2)(A)(iv)
- (e) R.C.M. 305(i)(2)(C)
- (f) R.C.M. 305(n)
- (g) R.C.M. 404(e)
- (h) R.C.M. 404A
- (i) R.C.M. 405 (not final)
- (j) R.C.M. 801(a)(6)
- (k) R.C.M. 806(b)(2)
- (l) R.C.M. 806(b)(3)
- (m) R.C.M. 906(b)(8)
- (n) R.C.M. 1001(b)(4)
- (o) R.C.M. 1105(b)(1)
- (p) R.C.M. 1105(b)(2)
- (q) R.C.M. 1107(b)(1)
- (r) R.C.M. 1107(b)(3)(A)(iii)

- (s) R.C.M. 1107(b)(3)(A)(iv)
- (t) R.C.M. 1107(b)(3)(B)(i)
- (u) R.C.M. 1107(b)(3)(C)
- (v) R.C.M. 1107(c)
- (w) R.C.M. 1107(d)(1)
- (x) R.C.M. 1107(d)(2)
- (y) R.C.M. 1107(f)(2)
- (z) R.C.M. 1107(g)
- (aa) R.C.M. 1108(b)
- (bb) R.C.M. 1301(c)



Currently Under Review

- (a) RCM 201(f)(1) – Jurisdiction
- (b) RCM 201(f)(2) – Jurisdiction
- (c) RCM 305(i)(2)(A)(i) – Victim Rights
- (d) RCM 305(i)(2)(A)(iv) – Victim Rights
- (e) RCM 305(i)(2)(C) – Victim Rights
- (f) RCM 305(n) – Victim Rights
- (g) RCM 404(e) – Art. 32
- (h) RCM 404A – disclosure (new)
- (i) RCM 405 (not final) – Art. 32
- (j) RCM 801(a)(6) – Victim Rights
- (k) RCM 806(b)(2) – Victim Rights
- (l) RCM 806(b)(3) – technical
- (m) RCM 906(b)(8) – Victim Rights
- (n) RCM 1001(b)(4) – Victim Rights
- (o) RCM 1105(b)(1) – Accused Rights at clemency
- (p) RCM 1105(b)(2) – Accused Rights at clemency
- (q) RCM 1107(b)(1) – CA review at clemency
- (r) RCM 1107(b)(3)(A)(iii) – Victim Rights
- (s) RCM 1107(b)(3)(A)(iv) – Victim Rights
- (t) RCM 1107(b)(3)(B)(i) – Victim Rights
- (u) RCM 1107(b)(3)(C) – CA clemency consideration
- (v) RCM 1107(c) – CA action on clemency
- (w) RCM 1107(d)(1) – CA clemency
- (x) RCM 1107(d)(2) – CA clemency
- (y) RCM 1107(f)(2) – CA action
- (z) RCM 1107(g) – CA action
- (aa) RCM 1108(b) – Suspend/Remit sentence
- (bb) RCM 1301(c) – technical



Changes



NDAA FY12 Dec 31, 2011	NDAA FY13 Jan 2, 2013	EO 13643 May 15, 2013	NDAA FY 14 Dec 26, 2013	EO 13669 Jun 13, 2014	EO ?????	FY15 NDAA
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Questions



INTEGRATED DISABILITY EVALUATION SYSTEM (IDES)

MEDICAL BOARDS (MEB)
AND
PHYSICAL EVALUATION BOARDS (PEB)

LCDR AMY E. PEERY

INTEGRATED DISABILITY EVALUATION SYSTEM

Relevant references include:

- MILPERSMAN 1910-168, 29 Sep 2006; 1910-120 , 15 Mar 2012
- Directive-Type Memorandum (DTM) 11-015 – Integrated Disability Evaluation System (IDES), Incorporating Change 3, August 6, 2013
- DoD Instruction 1332.38, “Physical Disability Evaluation,” November 14, 1996, Incorporating Change 1, July 10, 2006
- Manual of the Medical Department (MANMED), Chapter 18 Change 120, 2005
- DON Disability Evaluation Manual, SECNAVINST 1850.4E

INTEGRATED DISABILITY EVALUATION SYSTEM

- As he "awoke one morning from uneasy dreams he found himself transformed in his bed into a gigantic insect."
 - Franz Kafka, *The Metamorphosis*

INTEGRATED DISABILITY EVALUATION SYSTEM

"Kafkaesque" –

term used to describe concepts and situations reminiscent of Franz Kafka's work. Examples include instances in which bureaucracies overpower people, often in a surreal, nightmarish milieu which evoke feelings of senselessness, disorientation, and helplessness.

INTEGRATED DISABILITY EVALUATION SYSTEM

Disability Defined (SECNAVINST 1850.4E):

(1)... defines "disability" as "any impairment due to disease or injury, regardless of degree, that reduces or prevents an individual's actual or presumed ability to engage in gainful employment or normal activity."

(2) ... a "medical impairment or physical defect standing alone does not constitute a physical disability. To constitute a physical disability, the medical impairment or physical defect must be of such a nature and degree of severity as to interfere with the member's ability to adequately perform his or her duties." ... "the term, "physical disability," includes mental disease, but not such inherent defects as behavioral disorders, adjustment disorders, personality disorders, and primary mental deficiencies."

INTEGRATED DISABILITY EVALUATION SYSTEM

- 1) Maintain a fit fighting force capable of fighting battles and winning wars; and
- 2) Compensate service members whose disability (not diagnosis) caused military career termination.

SECNAVINST 1850 .4E (2002) § 3101.

INTEGRATED DISABILITY EVALUATION SYSTEM

IDES PROCESS:

- Joint DoD-VA process by which DoD determines whether service members are FIT for continued military service.
- DoD and VA determine appropriate benefits for Service members who are separated or retired for a Service-connected disability.
- Disability medical examinations appropriate for fitness determination by the Military Departments and disability ratings provided by VA for appropriate use by both departments.

INTEGRATED DISABILITY EVALUATION SYSTEM

Two Agencies/Two Ratings:

DoD: PEB determines if a referred condition renders a member “FIT” or “UNFIT” for continued duty

VA: Rates referred *and* claimed conditions if PEB found member unfit for any condition

INTEGRATED DISABILITY EVALUATION SYSTEM

DoD Rating \geq 30%: Medically Retired

TDRL: Unstable Condition – period of up to 5 years

PDRL: Permanent Stable Condition

DoD Rating $<$ 30%: Medically Separated with a
severance check

INTEGRATED DISABILITY EVALUATION SYSTEM

PEB focus:

Occupational impact of *separately* unfitting condition(s).

(Inability to deploy or take a PFT is insufficient for an “unfit” finding).

INTEGRATED DISABILITY EVALUATION SYSTEM

Circumstances Indicating Need for an MEB - An MEB shall be initiated when a physician determines that:

- SM has a condition that significantly interferes with performance of duties appropriate to the member's office, grade, rank, or rating.
- Condition prohibits return to parent command in a medically unrestricted duty status following appropriate light duty status.
- SM's condition may seriously compromise SM's health or well-being if the member were to remain in the military service (e.g., continued service would likely result in extended hospitalization(s), requirements for close medical supervision, or potential aggravations of the existing condition).

INTEGRATED DISABILITY EVALUATION SYSTEM

Circumstances Indicating Need for an MEB Continued:

- SM's condition may prejudice the best interests of the Government if the member were to remain in the military service.
- SM's condition requires assignment limitations (e.g., geographic restraints or assignment near a particular MTF with specialty services, etc.).

INTEGRATED DISABILITY EVALUATION SYSTEM

IDES Roles:

- **MEB Convening Authority/Provider:** Assemble an MEB. MEB members consult and render a decision on whether the Service member's fitness for continued military service is questionable because of physical or mental impairment. MEB documents their decision. **MEBs shall not state a conclusion of unfitness because of physical disability or assign disability rating. MEB can note EPTS but PEB makes final EPTS determination.**

INTEGRATED DISABILITY EVALUATION SYSTEM

IDES Roles Continued:

- **Commanding Officer:** Non-Medical Assessment of the Service member's ability to perform their current job; and assign SM duties appropriate to their condition; determines whether other appropriate administrative actions are available.
- **IDES Legal:** Ensure SM's receive due process at all stages of IDES process.

INTEGRATED DISABILITY EVALUATION SYSTEM

IDES Roles Continued:

- **PEB:** Only PEB determines the fitness of SMs with medical impairments to perform their military duties; and entitlement to benefits under Chapter 61.
- NOTE: MTFs do not determine fitness for continued service (this is not the same as determining "fit for duty" terminating a period of LIMDU, which MTFs do accomplish...).

Major DES Stages

MEDICAL BOARD ("MEB")

- A medical report is prepared and signed by 2 doctors.

- Member's Command prepares a Non-Medical Assessment ("NMA"):

How do limitations affect ability to perform in rate and rank?

- MEB does not make findings regarding fitness or disability rating.

- MEB creates and forwards a "package" to IPEB.

INFORMAL PHYSICAL EVALUATION BOARD ("IPEB")

- 3 member panel (1 doctor and 2 senior line officers) reviews MEB package.

- IPEB issues "informal" findings based on MEB package:

1) Is member fit for continued service?

2) If no, what is disability rating for unfitting condition(s)?

- Member can accept, request reconsideration, or request an FPEB.

FORMAL PHYSICAL EVALUATION BOARD ("FPEB")

- FPEB counsel is assigned.

- Member and counsel present their position in-person to a 3 member panel, not necessarily the same panel as IPEB.

- FPEB is not an adversarial proceeding: no government representative.

- FPEB is held in less than 10% of DES cases.

INTEGRATED DISABILITY EVALUATION SYSTEM

In Determining Fit or Unfit, PEB (DoD) considers:

1. Narrative Summary (i.e., Physician referral to MTF medical board);
2. Command's Non-Medical Assessment ("NMA");
3. Service Member's Preference.

INTEGRATED DISABILITY EVALUATION SYSTEM

FIT Characteristics:

- “Can perform duties of office, grade, rank or rating.”
- CO states member is performing duties
- Stable, unchanging, long-term condition
- Minimal findings on Physical Exam

MEMBER MOTIVATED TO CONTINUE SERVICE

INTEGRATED DISABILITY EVALUATION SYSTEM

UNFIT Characteristics:

- “Member is unable to reasonably perform their duties within their rank or rate.”
- CO’s assessment indicates *SPECIFIC* job limitations, sig absences from work (e.g., clinic/ER).
- Objective Findings on physical exam

MEMBER STATES A DESIRE TO LEAVE

INTEGRATED DISABILITY EVALUATION SYSTEM

DIAGNOSIS v. DISABILITY v. UNSUITABLE

- Disability: “Any impairment due to disease or injury, that reduces or prevents an individual’s actual or presumed ability to engage in gainful employment or normal activity”

SECNAVINST 1850.4E, page 2-16

CONDITION NOT A DISABILITY (CND)

Condition Not A Disability:

- There are conditions and situations in which convening an MEB is neither appropriate nor desired. Certain conditions and defects of a developmental nature are not ratable in the absence of an underlying ratable causative disorder.
- These conditions, while not appropriate for MEB referral, may be referred for appropriate administrative action (for Navy, MILPERSMAN article 1900-120 applies and for USMC, the Marine Corps Separation and Retirement Manual (MARCORSEPMAN), chapter 6, applies)

CONDITION NOT A DISABILITY (CND)

Condition Not A Disability (Continued):

- See also SECNAVINST 1850.4E, Paragraphs 2016 (Conditions Not Constituting a Physical Disability); and 3202 (Circumstances Not Justifying Referral To The Physical Evaluation Board).
- While the primary consideration in determining whether an MEB should be convened is the professional judgment of the attending physician, **this list should be consulted frequently by providers and patient administration staff. (MANMED Chap 18)**

CONDITION NOT A DISABILITY (CND)

CND CONCLUSION/RECOMMENDATION:

- MANMED article 18-4 provides guidance on determining those patients for whom referral to the PEB may be appropriate. Moreover, dilemmas at the MTF level over whether a disabling condition exists that renders a member unfit for continued naval service will be resolved by referral of the case to the PEB.

INTEGRATED DISABILITY EVALUATION SYSTEM

CND CONCLUSION/RECOMMENDATION (Continued):

- Consistent Referral language: The MEB report may state something to the effect, "the member is referred to the PEB because we are of the opinion that the member's condition may interfere with the performance of his or her duties because the member does not meet medical retention standards as described in..." [indicate location as appropriate].

IDES POCS AS OF 8 MAY 14

NORTHERN CALIFORNIA, ILLINOIS, & WASHINGTON MEDICAL TREATMENT FACILITIES

Naval Hospital Lemoore, California; Captain James A. Lovell Federal Health Care Center, Naval Station Great Lakes, Illinois; Naval Hospital Bremerton, Washington; & Naval Hospital Oak Harbor, Washington

Mr. David Hoerber, (224) 610-4760, david.hoerber@va.gov

SOUTHERN CALIFORNIA MEDICAL TREATMENT FACILITIES

Naval Hospital Camp Pendleton & Robert E. Bush Naval Hospital, 29 Palms

Mr. Ramon Lao, (760) 763-9465, ramon.lao@med.navy.mil

LtCol Kurt Larson, USMCR, (760) 763-9455, kurt.larson@usmc.mil

Naval Medical Center San Diego

Camilo Kafie, (619) 532-5606, camilo.kafie@med.navy.mil

LtCol Robert Marshall, USMC, (619) 532-5605, robert.marshall@med.navy.mil

IDES POCS AS OF 8 MAY 14

CONNECTICUT MEDICAL TREATMENT FACILITY

Navy Branch Health Clinic Groton

Mr. Del Grissom, (301) 319-7831, phillip.d.grissom@health.mil

FLORIDA MEDICAL TREATMENT FACILITIES

Naval Hospital Jacksonville

Mr. Christopher Perone, (904) 542-9101, christopher.perone@med.navy.mil

Naval Hospital Pensacola

Mr. Glen Chidester, (850) 505-7027, glen.chidester@med.navy.mil

HAWAII MEDICAL TREATMENT FACILITY

Naval Health Clinic Hawaii

1ST Lt Zachary Goodman, USMC, (808) 257-6740, zachary.goodman@usmc.mil

IDES POCS AS OF 8 MAY 14

MARYLAND MEDICAL TREATMENT FACILITIES

Naval Health Clinic Annapolis; Naval Health Clinic Patuxent River

Mr. Del Grissom, (301) 319-7831, phillip.d.grissom@health.mil

Walter Reed National Military Medical Center, Bethesda

Mr. Del Grissom, (301) 319-7831, phillip.d.grissom@health.mil

Ms. Elizabeth Moores, (301) 319-8125. elizabeth.c.moores.civ@health.mil

LtCol Steve Lyons, USMCR, (301) 400-0991, stephen.m.lyons.mil@health.mil

NORTH CAROLINA MEDICAL TREATMENT FACILITIES

Naval Health Clinic Cherry Point & Naval Hospital Camp Lejeune

Ms. Samantha M. Keck, (910) 450-2554, samantha.keck@med.navy.mil

Maj Philip Giarraputo, USMCR, (910) 450-2549, philip.giarraputo@med.navy.mil

Capt Kevin Knightly, USMCR, (910) 450-2550, kevin.knightly@med.navy.mil

IDES POCS AS OF 8 MAY 14

OVERSEAS MEDICAL TREATMENT FACILITIES

Mr. Del Grissom, (301) 319-7831, phillip.d.grissom@health.mil

RHODE ISLAND MEDICAL TREATMENT FACILITY

Naval Health Clinic New England, Newport

Mr. Del Grissom, (301) 319-7831, phillip.d.grissom@health.mil

SOUTH CAROLINA MEDICAL TREATMENT FACILITIES

**Naval Hospital Beaufort, South Carolina & Naval Health Clinic
Charleston, South Carolina**

Ms. Samantha M. Keck, (910) 450-2554, samantha.keck@med.navy.mil

Maj Philip Giarraputo, USMCR, (910) 450-2549,
philip.giarraputo@med.navy.mil

Capt Kevin Knightly, USMCR, (910) 450-2550, kevin.knightly@med.navy.mil

IDES POCS AS OF 8 MAY 14

VIRGINIA MEDICAL TREATMENT FACILITIES

Naval Medical Center, Portsmouth

Mr. Jason M. Fritz, 757-953-9210, jason.fritz@med.navy.mil

Ms. Esther P. Jiles-Yarbrough, (757) 953-5877,
esther.jilesyarbrough@med.navy.mil

Naval Medical Clinic Quantico, Virginia

LtCol Steve Lyons, USMCR, (703) 784-4632, stephen.m.lyons@usmc.mil

FPEB COUNSEL

Major Carla Sloane, USMCR

Acting Program Manager

Phone: (202) 685-5294

carla.sloane@navy.mil

QUESTIONS?



Working with TC

Teresa Scalzo
Deputy Director, Navy TCAP



Topics

- Double goals of prosecution
- The process
- Victim rights
 - Privacy and dignity
 - Protection
 - Court attendance



Double Goals of Prosecution

- Accountability
 - Yes, we want to get the “bad guy”
 - The exercise of victim rights is not always consistent with getting a conviction
- **Victim wholeness and healing**
 - This is where TC see VLC



Victim Support and Offender Accountability

- Effective victim support increases ability to hold offenders accountable
 - Victims who receive SANE / SART services are more likely to participate in the criminal justice system than those who do not. One of the strongest predictors of conviction is the victim's participation in the process.
 - Nugent-Borakove, Elaine, et al., *Testing the Efficacy of SANE / SART Programs: Do They Make a Difference in Sexual Assault Arrest and Prosecution Outcomes?* (2006)
 - Support from system personnel can positively impact victim participation.
 - Greeson, Megan and Campbell, Rebecca, *Rape Survivors' Agency Within the Legal and Medical Systems*, *Psychology of Women Quarterly* 35(4) 582-595 (2011)
 - Victim cooperation, which is critical to successful prosecution, can be strengthened by compassionate treatment by response personnel.
 - Patterson, Debra, *The Linkage Between Secondary Victimization by Law Enforcement and Rape Case Outcomes*, *J Interpers Violence* 2011 26: 328



What is TC's Role?

- Providing advice to convening authority
- Prosecuting the case in a trauma informed manner



What is the VLC Goal?

- **Goal oriented representation** is key!
 - Attorneys are required to act with diligence and promptness, *Rule 1.3, Diligence, JAGINST 5803.1D*
 - Comments to Rule 1.3 say covered attorneys:
 - May take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor
 - Should act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client's behalf. However, they are not bound to press for every advantage that might be realized for a client
-



The Process



VLC and TC

- TC is in the person responsible for overseeing the military justice process and making it work
- Convening authorities make disposition decisions, but TC run the process
- Make the TC your best friend
 - Always start with the TC when there is a problem



Victim Interviews

- TC and NCIS expectation is that you sit in the interview and not participate or interfere
- Any interaction with your client in front of TC or NCIS is potentially discoverable by the defense and could negatively impact the ability to prosecute the case



Victim's Property

- What if victim wants property back and TC / NCIS do not believe it is appropriate to release it yet?
 - Legal considerations
 - The law does not require evidence to be returned
 - Suggestion
 - Ask if there are acceptable alternative ways to preserve the evidence such as photos or videos



Victim Declination

- TC needs the signed victim declination form or the case will be presented to the convening authority on its merits
- Even if the victim declines to participate, NCIS may need to continue to investigate and TC may advise that the case should be prosecuted



Victim Cooperation

- “The victim’s decision to decline to participate in an investigation or prosecution should be honored by all personnel charged with the investigation and prosecution of sexual assault cases, including, but not limited to, commanders, DoD law enforcement officials, and personnel in the victim’s chain of command. If at any time the victim who originally chose the Unrestricted Reporting option declines to participate in an investigation or prosecution, that decision should be honored in accordance with this subparagraph. However, the victim cannot change from an Unrestricted to a Restricted Report. The victim should be informed by the SARC or SAPR VA that the investigation may continue regardless of whether the victim participates.”
 - DODI 6495.02, Encl. 4, (c)(1); SECNAVINST 1752.4B . Encl. 4, (c)(1)



Expediting Litigation

- Uncharted waters – When a VLC requests a continuance can this be excludable delay?



Victim Discovery

- Navy TC will generally provide charge sheets, victim statements, case management order, and MRE 412 and 513 motions to the victim
- Decisions about other discovery issues will be made on a case by case basis recognizing the potential impact on our ability to hold the offender accountable



Victim Discovery

- What if victim wants NCIS ROI?
 - Legal considerations
 - Victim must follow FOIA process
 - NCIS is the release authority
 - Suggestion
 - Explain the harm and advise to request after the court-martial



Victim Discovery

- What if victim wants Art 34 letter or IO report?
 - Legal considerations
 - Victim must follow FOIA process
 - CA is the release authority
 - Suggestion
 - Explain the harm and advise to request after the court-martial



Victim Discovery

- TC wants discovery from victim and victim does not want to turn it over (e.g., phone texts)
 - Legal considerations
 - Case will be abated if evidence is material
 - *US vs. Harding*, 63 MJ 65 (CAAF 2006)



Electronic Evidence

- May be the “magic bullet” especially where consent may be the defense, but victims may perceive the seizure of electronic evidence to be overly invasive
- Even if victim wants NCIS to seize electronic evidence, we may not be able to
 - Challenges with Facebook



Dignity and Privacy



Privacy

- What issues may arise?
 - MRE 412
 - MRE 513
 - MRE 514
 - Medical records
 - MRE 513
 - Psychotherapist Patient Privilege lays out procedures for obtaining records
 - *See, US v. Klemick, 65 MJ 576*
-



Privacy Issues

- TC being trained to think carefully before simply getting medical and mental health records and to hold defense to the rules if defense is seeking them
- On occasion, NCIS may get the records without consulting TC
- Talk to TC if your client is concerned about the release of these records



Protection



Victim Safety - MPO

- Typically, VLC and TC will be aligned in this area
- TC are being trained to reach out to NCIS TMU and how to utilize lethality assessments in domestic violence cases
- TC needs to know if you have safety concerns



Court Attendance



Right to Attend Hearings

- Court must determine testimony would be materially affected if victim hears other testimony at trial
 - Must do analysis for each witness
 - Clear and convincing evidence standard
- TC may or may not agree with VLC on whether victim's testimony will be effected
- Military judges may honor defense requests to force government to call victim before other prosecution witnesses that may affect their testimony
 - 18 U.S.C. § 3771, MRE 615, VWAP, DoD Directive 1030.1, sect. 4.4.4. SECNAV 1752.4A and OPNAVINST 1752.1B, encl. 2



Suggestions

- Explain to the victim what challenges will arise from him / her listening to the testimony of others
- Ask if TC will provide a transcript or recording of the proceedings when the trial is complete, even if not required
 - Article 54(e)



Contact Info

Teresa P. Scalzo, Esquire
Deputy Director, TCAP
(202) 685-8515
teresa.scalzo@navy.mil

TRAINING SCHEDULE – U.S. NAVY VLC
October 2013 – December 2014

DATE	TOPIC	TRAINER
15-18 October 2013 #	Special Victims Counsel (“SVC”) Course	USAF JAG School Instructors & Subject Matter Experts
29 January	DCO training	LCDR de Groot/LT Lawrence (VLC Training Officers)
20 February	VLC Program	CNLSC – RADM Crawford
6 March	DNA	Tim Kalafut (Defense Forensic Science Center, DNA Expert)
8-9 April *	Child Victim Training Course - EAST	Rob Giles, Esq. (TCAP Child Crimes Expert Counsel), Local Child Advocacy Center Interdisciplinary Team
17 April	TCAP – Victim Relations	Teresa Scalzo (TCAP Deputy Director)
22 May	PEB/Med Board	LCDR Peery (VLC & Civilian PEB Attorney, San Diego)
3-4 June *	Child Victim Training Course - WEST	Rob Giles, Esq. (TCAP Child Crimes Expert Counsel), Local Child Advocacy Center Interdisciplinary Team
26 June	VLC Child Rep Program Overview	CAPT Fischer-Anderson (COS - VLC), CDR House (DCOS – VLC), LT Lawrence (VLC Training Officer)
15 July	MCM/Miljus Update	LCDR Korody (VLC – Miljus Practitioner)
27 August	Trial Judiciary	CDR Monahan (Military Judge)
22 September †	ABA – Child Capacity, Child Communications, Child	ABA – Children & Law Section Experts -

TRAINING SCHEDULE – U.S. NAVY VLC
October 2013 – December 2014 – Continued

22 September cont. †	Representation Practitioner & Child Developmental Expert Insights	Dr. Solchany, Stephen Kelley, Esq., Julie Kenniston, MSW (For CONUS VLC)
25 September	Code 20 – NDAA/JSC Update	LCDR Kirkby (Code 20 Attorney)
16 October †	ABA – Child Capacity, Child Communications, Child Representation Practitioner & Child Developmental Expert Insights	ABA – Children & Law Section Experts - Dr. Solchany, Stephen Kelley, Esq., Julie Kenniston, MSW (For OCONUS VLC)
23 October	Reserves	LCDR Dopke (Recalled SELRES VLC)
20 November ‡	Practical Tips on Working with Children	SALI Attorney
16 December ‡	Quashing Subpoenas at Article 32 and Trial	LCDR Call

All training was held online utilizing the Defense Connect Online (“DCO”) web portal unless otherwise noted. Navy VLC Attorney attendance at all trainings was mandatory and all training was recorded so any VLC absent would later view training recording. Only Navy VLC attended training unless otherwise specifically noted herein.

- Denotes Live Training held at the USAF JAG School on Maxwell AFB, Montgomery, Alabama. All Navy VLC Attorneys attend the USAF SVC Course as a component of initial VLC training. Nineteen Navy VLC Attorneys attended this course on the dates specified; USAF & USMC VLC were also in attendance.

* - Denotes Live Training – East was held in Norfolk, Virginia, West was held in San Diego, California on the dates specified. Sixteen VLC Attorneys attended East training & twelve VLC Attorneys attended West training. One U.S. Army SVC attended West training.

† - Denotes Live Webinar Training held on two occasions so CONUS and OCONUS Navy VLC could attend and ask questions in real time. Training attendance was mandatory for all VLC attorneys and training was also recorded for future use in training VLC Attorneys.

‡ - Denotes Training is scheduled but has not occurred at the time the response to Question 29 is submitted.

Navy Victim's Legal Counsel DNA Training, March 2014

Tim Kalafut
404-469-7289
DSN 797-7289

timothy.s.kalafut.civ@mail.mil

Goals of This Talk

- DNA 101 – Focused on Differential DNA extraction
- Orientation in looking at DNA data
- DNA mixtures and number of contributors
- Basic Interpretation – what does that report mean?
- Things to think about for 412 issues
 - (I may not have real smooth transitions between topics – Sorry)

Identify Biological Material

- Primarily blood and semen
- Sometimes saliva
- Use screening tests
 - Sensitivity is more important than specificity
 - Use confirmatory tests

Semen Testing

- Acid Phosphatase
- Enzyme present in high concentrations in seminal fluid
- Color change <60 seconds

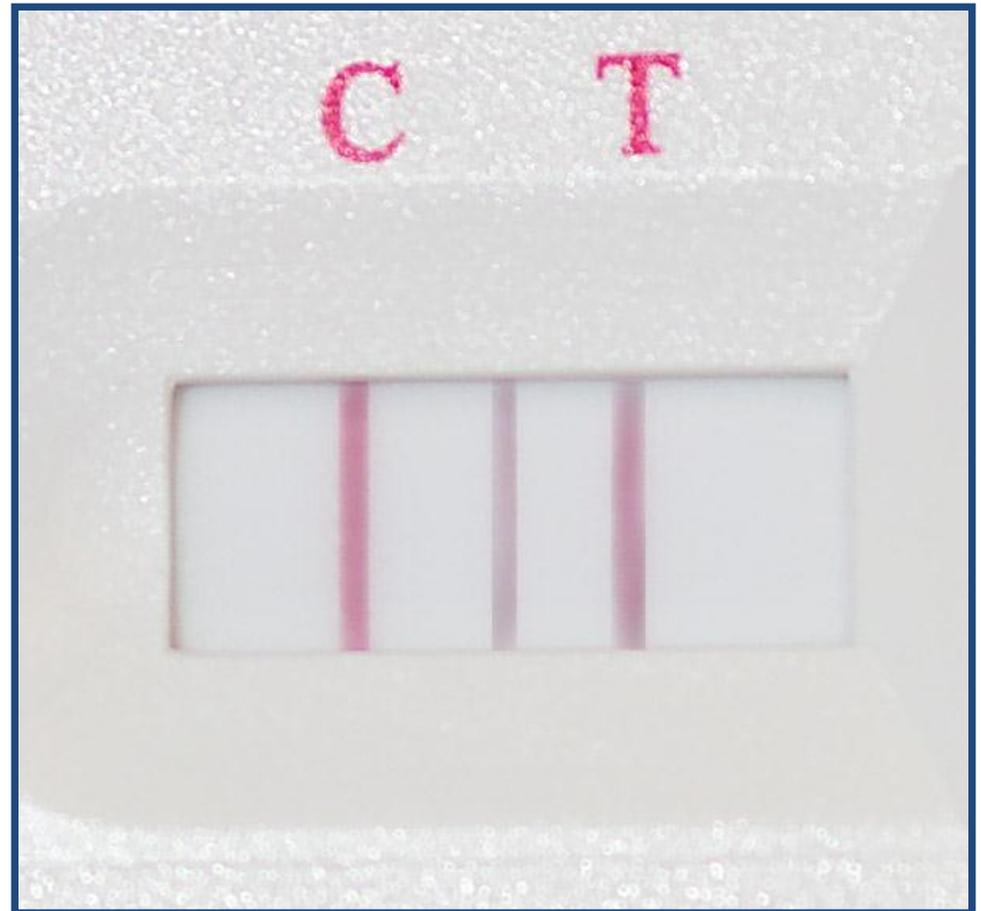


Semen Confirmation Test

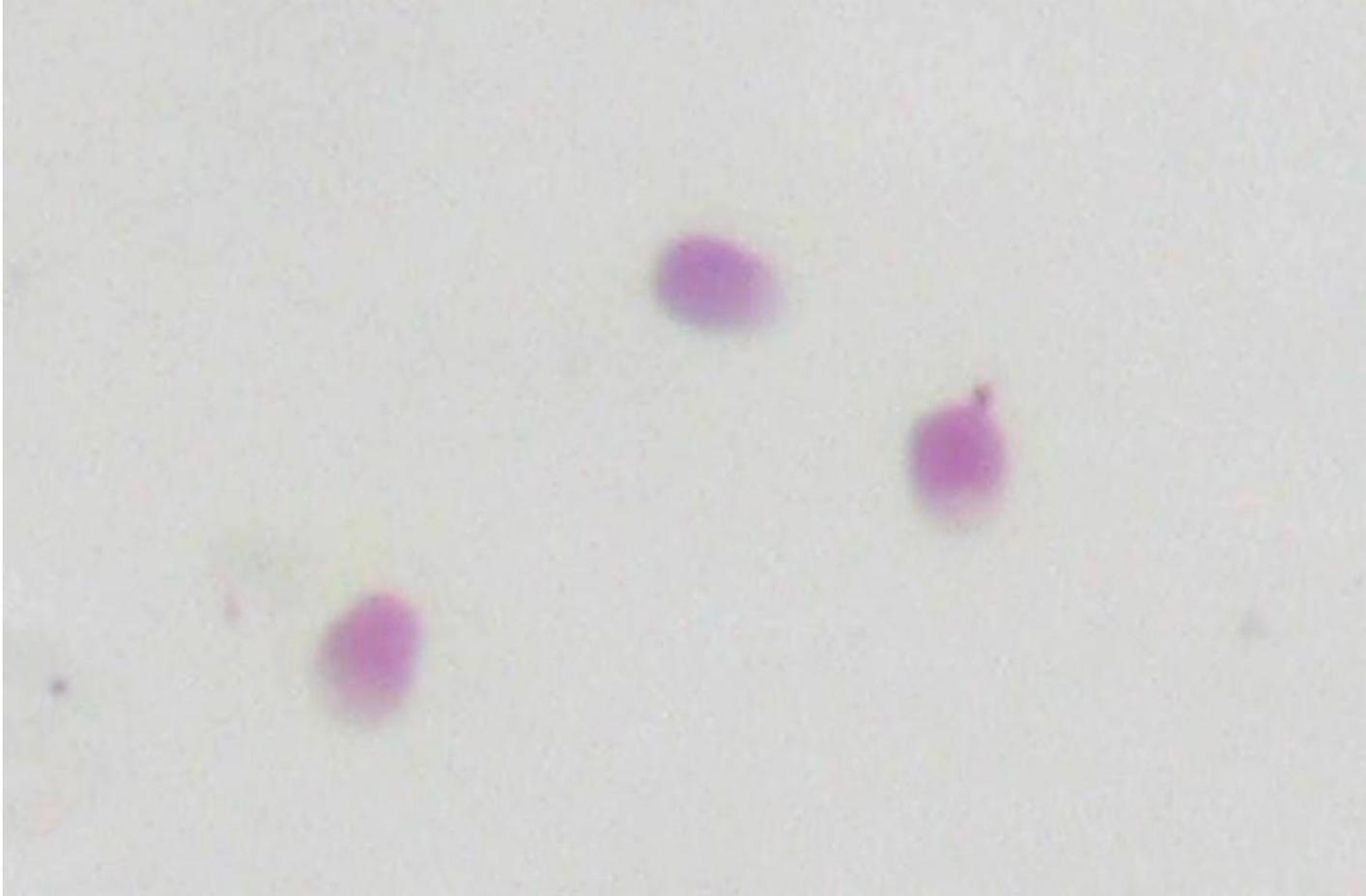
- Microscopic or P30 test (PSA)
- Line appears <10 minutes



Semen Confirmation Test



Microscopic Detection of Sperm Cells



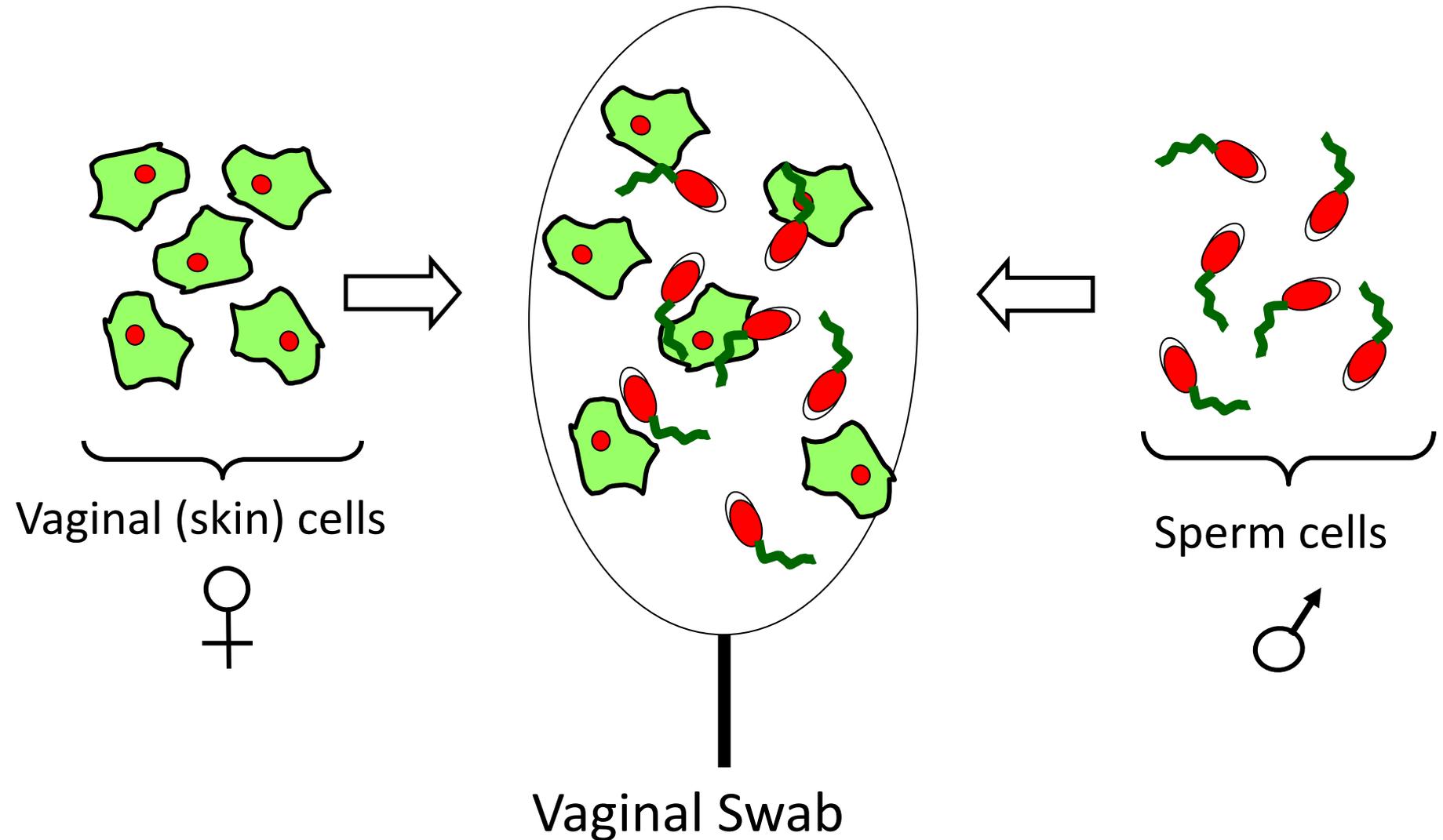
How we do DNA in the Lab

- 1. Extract
- 2. Amplify
- 3. Analyze
 - (3a). Compare K & Q
- (4). Statistics

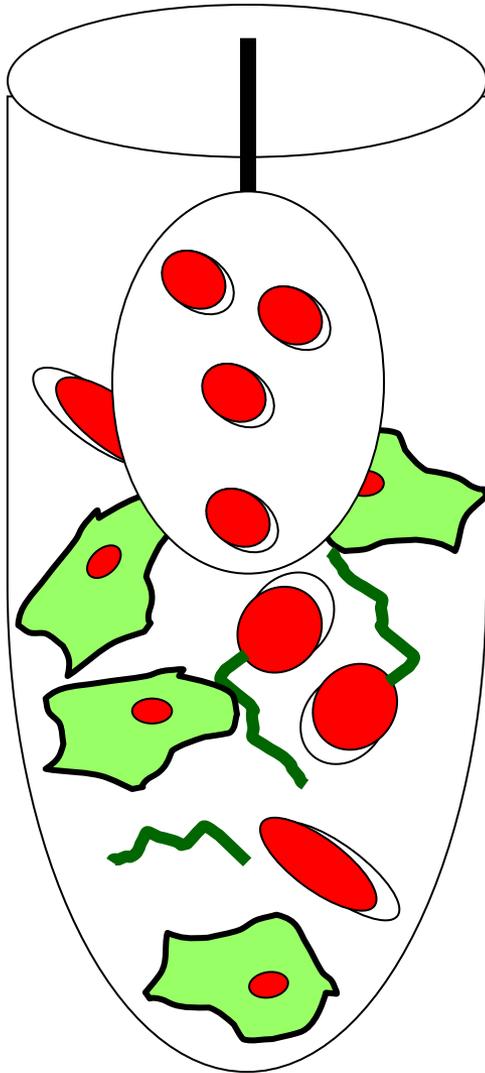
Extraction

- Use detergent and enzymes to wash stain from substrate and release DNA
- Differential extraction is designed to separate sperm DNA from other sources of DNA (requires 2 steps)
 - Mild conditions for non-sperm cells
 - Harsh conditions for sperm cells

Differential Extraction

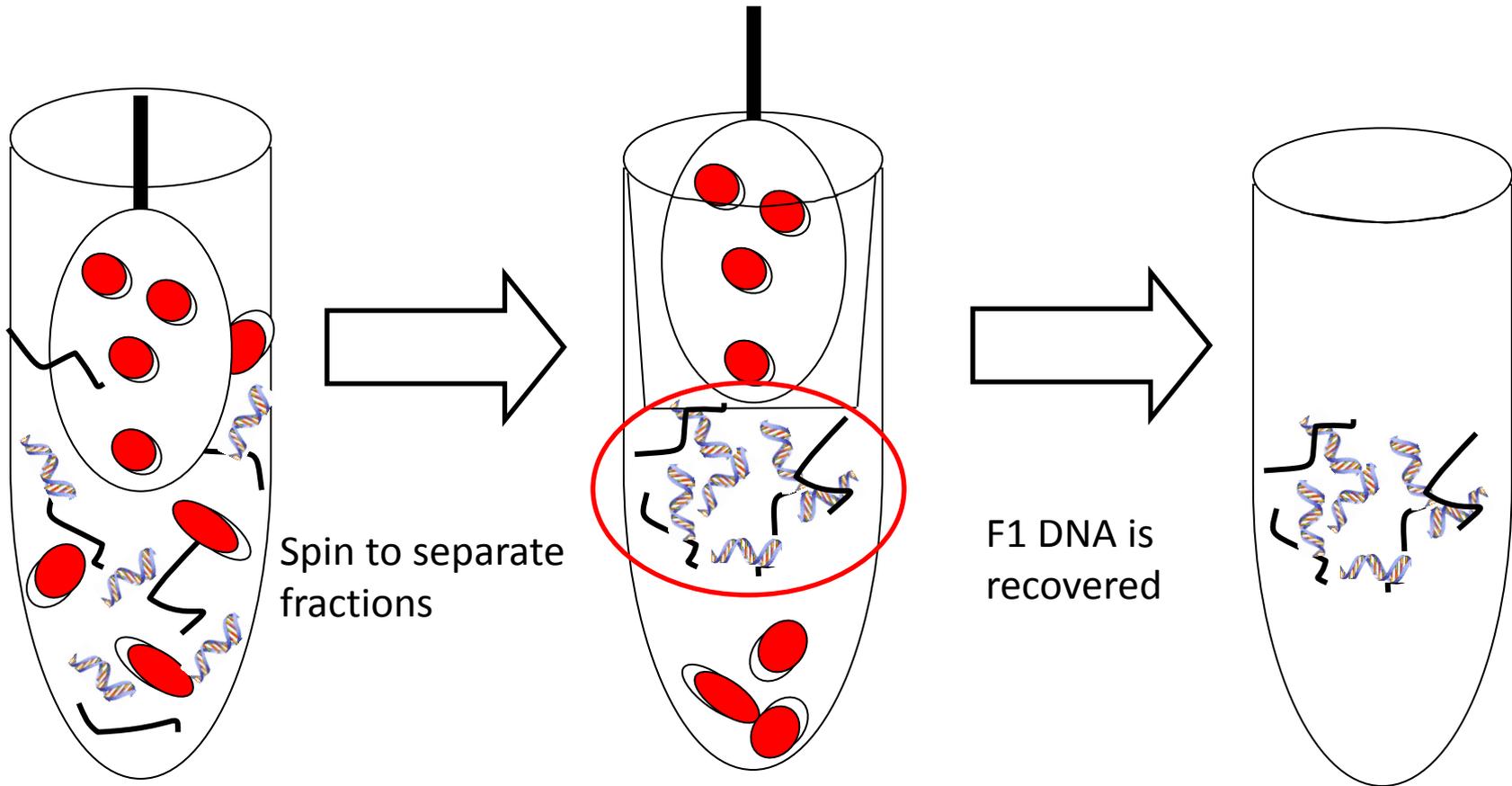


Differential Extraction



- First step removes cells from substrate and releases DNA from the non-sperm cells
- Uses mild conditions
- Referred to as:
 - F1 (first fraction)
 - Epithelial fraction
 - Female fraction

Differential Extraction



Spin to separate fractions

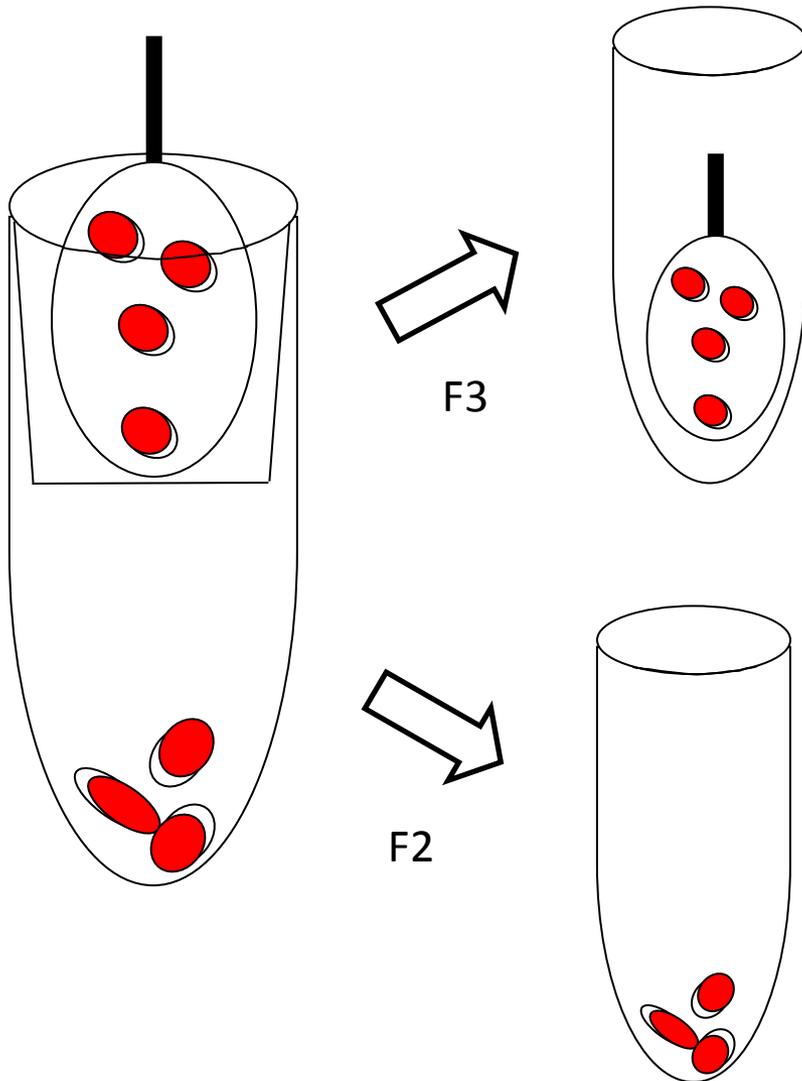
F1 DNA is recovered

Epithelial DNA released

Sperm still intact

F1

Differential Extraction



- Two new fractions
 - F2 (Second fraction)
 - Sperm pellet fraction
 - F3 (Third fraction)
 - Substrate fraction
- Second step uses harsh conditions to release DNA from sperm cells

Occam's Razor

- William of Occam (or Ockham)
- Franciscan Monk
- ca 1285-1349

Occam's Razor

- *Pluralitas non est ponenda sine neccesitate*
- Plurality should not be posited without necessity

Occam's Razor

- *Entia non sunt multiplicanda praeter necessitatem*
- Entities must not be multiplied beyond necessity
- Law of Parsimony or Law of Economy

Occam's Razor

- Sir Isaac Newton

"We are to admit no more causes of natural things than such as are both true and sufficient to explain their appearances."

Occam's Razor

- Leonardo da Vinci

"Simplicity is the ultimate sophistication."

Occam's Razor

- The bottom line:
- “Of two equivalent theories or explanations, all other things being equal, the simpler one is to be preferred.”

Simplest is really referring to the theory with the fewest new assumptions.

Tim's (dull, rusty) Razor

- The simplest explanation is usually the best.
- We probably all think this to some extent.
- What can be “proven?”

Occam's Razor

- How does this apply to a case?
- The evidence:
 - Semen on a vaginal swab matching Accused
 - Mixed stain on bathroom rug that includes both Victim and accused

Occam's Razor

- What does this mean?
 - Victim says she was raped in his quarters in the bathroom on the rug and she fairly positive he ejaculated inside her
 - Accused says he never touched her. She must have used his bathroom, and he must have been out of toilet paper, so she reached into his trashcan and pulled out a wad of tissue that he had previously used to clean up after he had masturbated the day before, and for some reason the laws of....

Occam's Razor

- What does this mean (cont)
 - physics were temporarily suspended and the semen didn't dry on that wad of tissue and she must have used it to wipe, and she must have wiped really hard because it transferred semen that should have been dry but wasn't to her inner vaginal vault area and she must have freaked out about having yucky stuff on her fingers so she wiped them on the rug instead of washing her hands in the sink.

Occam's Razor

- Which theory is the simplest?
- Which theory has the fewest assumptions?
- (I love it when the defense says “But it’s POSSIBLE, isn’t it?”)
 - “Well sure, but it’s possible to transplant genes from one animal to another, so if you take the gene for an eagle’s wings and transplant it to pigs, then pigs will fly”

You Can't Make This Stuff Up

The screenshot shows the Fox News website interface. At the top, there are navigation links for Fox News, Fox Business, uReport, Fox News Radio, Fox News Latino, Fox Nation, and Fox News Insider, along with a Login button. Below this is a search bar and a section for "ON AIR NOW" featuring "9a^{et} America's Newsroom" and "11a^{et} Happening Now". A navigation menu includes Home, Video, Politics, U.S., Opinion, Entertainment, Tech, Science, Health, Travel, Lifestyle, World, Sports, and On Air. A large banner image shows a pier at sunset. Below the banner is a sub-navigation menu with categories like Crime, Economy, Immigration, Disasters, National Interest, Terror, Military, Religion, and Education. The main article is titled "Breeze blamed: Gang rape defendant claims wind carried DNA from beer can to condom", published on June 04, 2013. The article features a video player showing a man in a white shirt. To the right of the article is an advertisement for AT&T, offering an "Internet + Home Phone" deal for less than \$39 per month for 12 months. Below the advertisement is a "RECOMMENDED VIDEOS" section with three video thumbnails: "US publishes details of top secret Israeli missile base", "Boat Launch Goes Wrong", and "Terrifying turbulence: 'The plane just dropped'". At the bottom, there is a "TRENDING IN U.S." section.

Fox News | Fox Business | uReport | Fox News Radio | Fox News Latino | Fox Nation | Fox News Insider | Login

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Breeze blamed: Gang rape defendant claims wind carried DNA from beer can to condom

Published June 04, 2013 / FoxNews.com

Internet + Home Phone from AT&T get a hole-in-one deal less than \$39/mo for 12 months Score More

RECOMMENDED VIDEOS

US publishes details of top secret Israeli missile base

Boat Launch Goes Wrong

Terrifying turbulence: 'The plane just dropped'

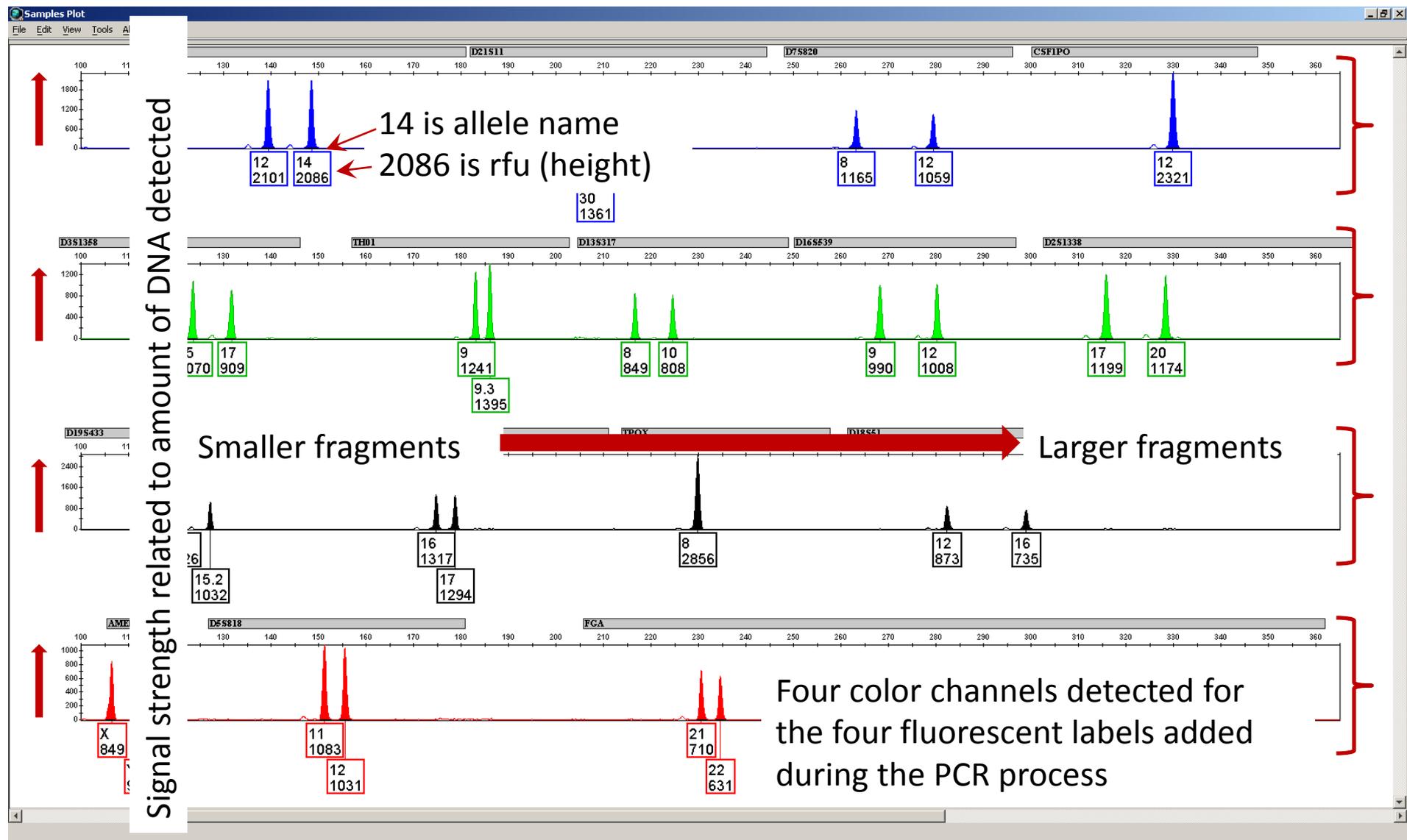
No more pills to treat high blood pressure?

TRENDING IN U.S.

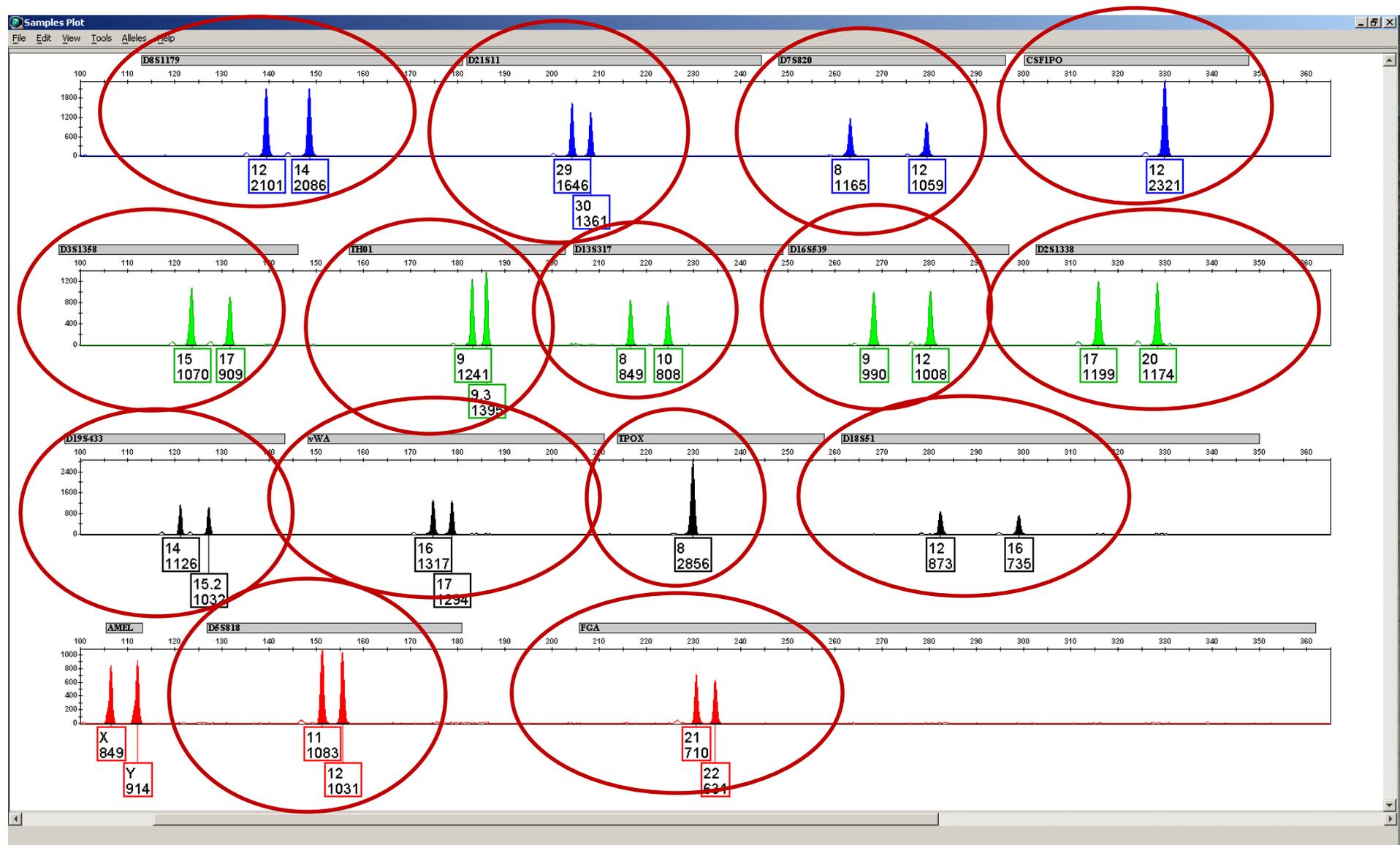
Introduction to DNA Profiles

- Single Source
- Blanks
- Mixture of 2 persons
- Major/minor mixture
- Complex/degraded/not interpretable

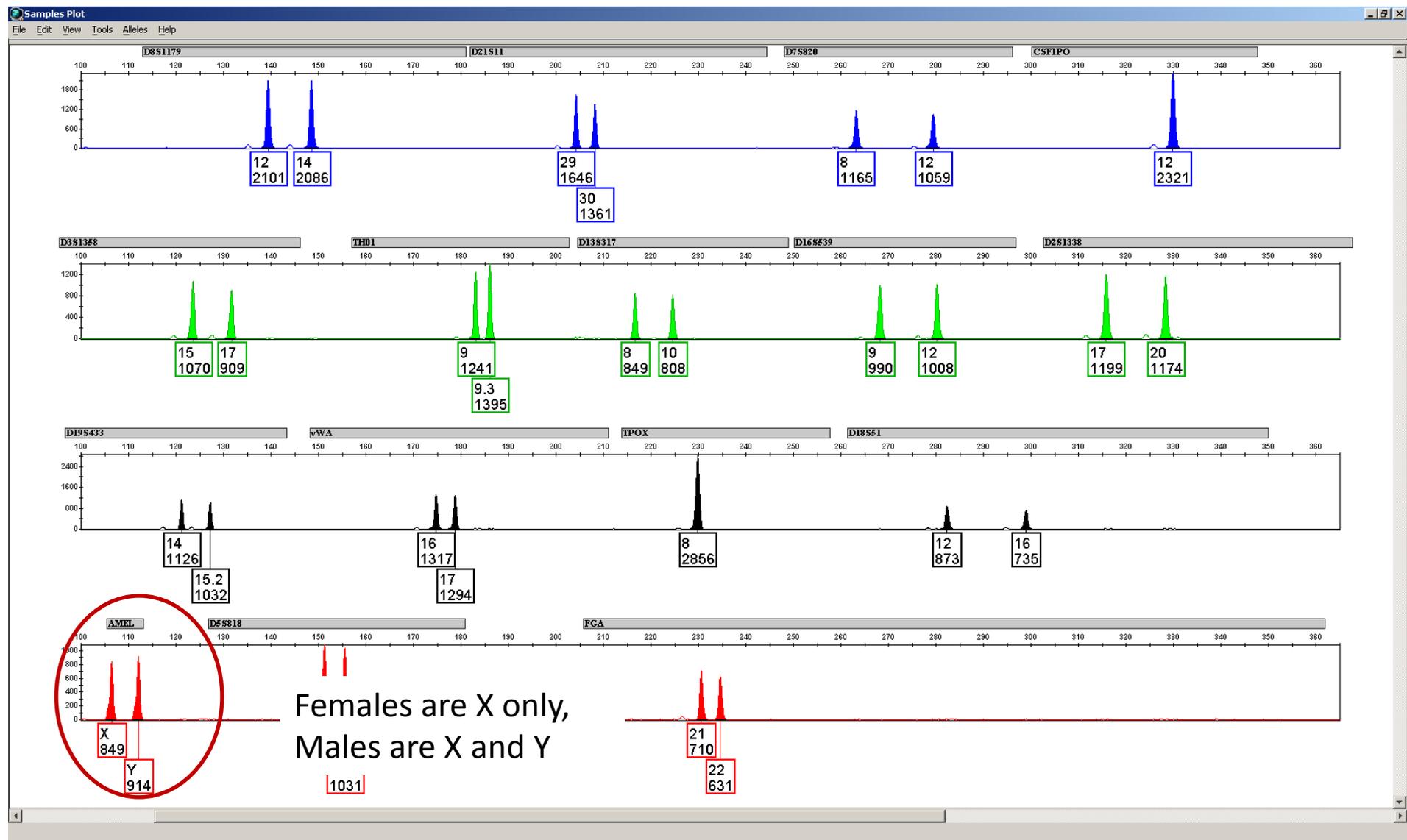
What the Data Looks Like



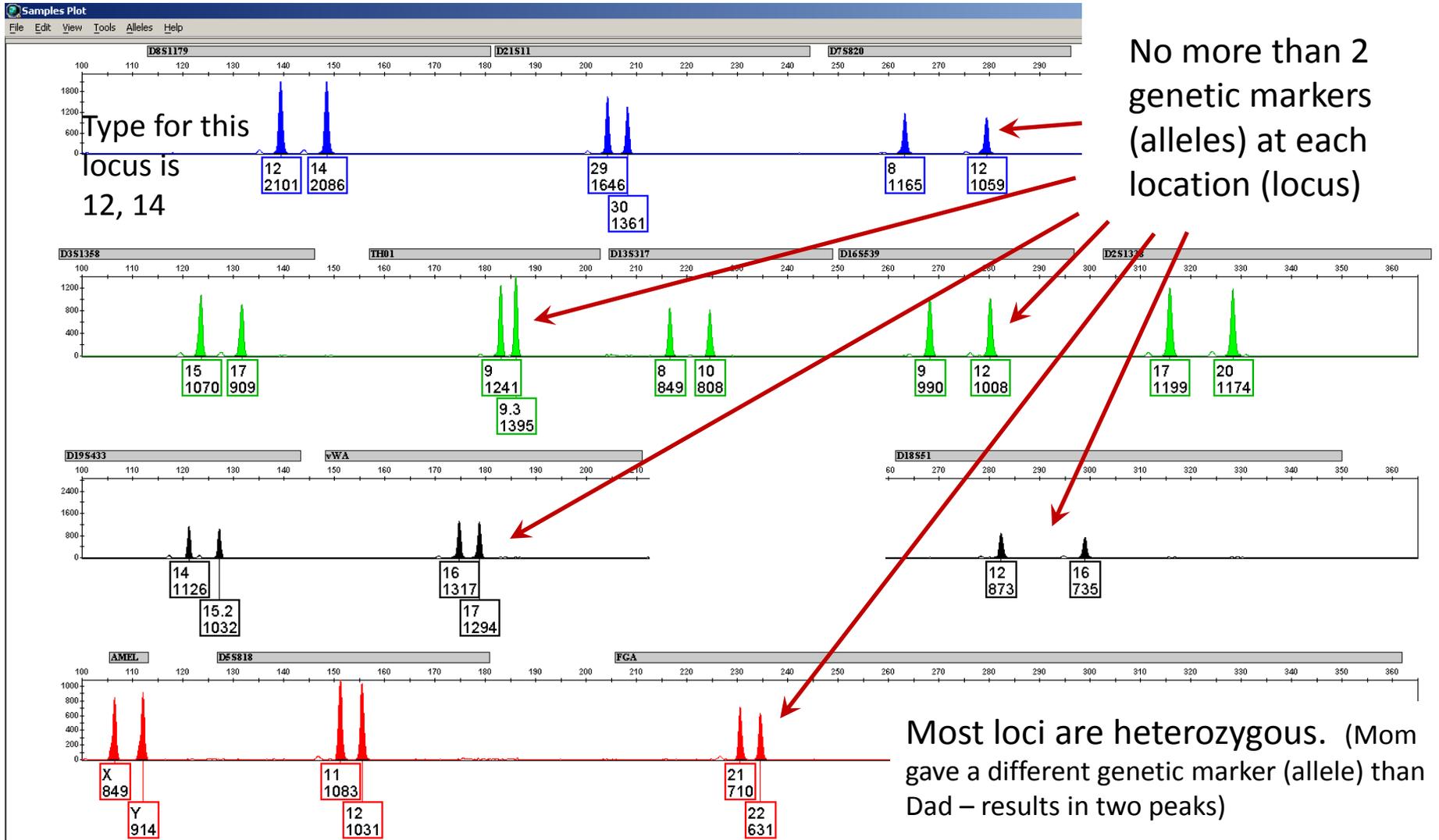
15 Areas of DNA (Loci) Tested



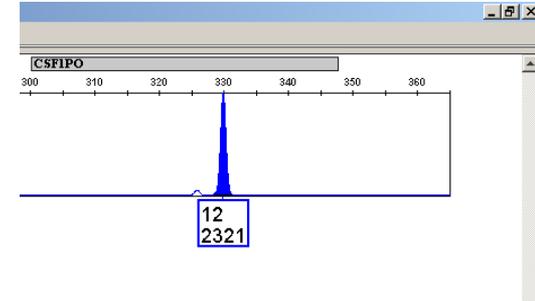
Gender Marker Also



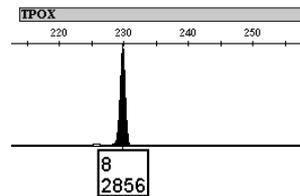
Single Source Profile



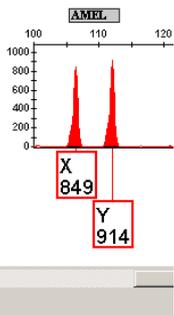
Single Source Profile



Two loci are homozygous. (Mom and Dad gave the same allele – results in a single peak)

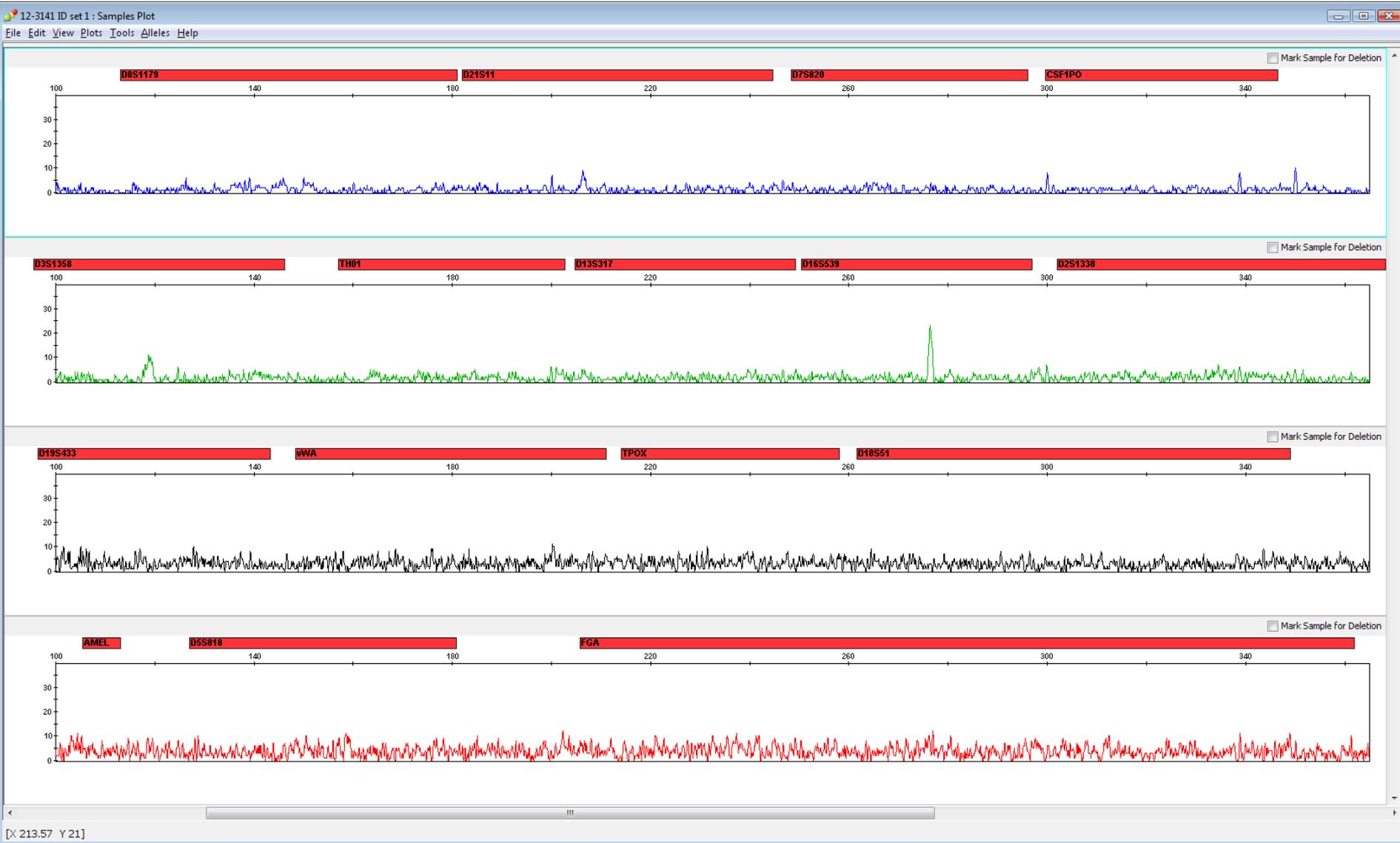


Type for this locus
Is 8, 8

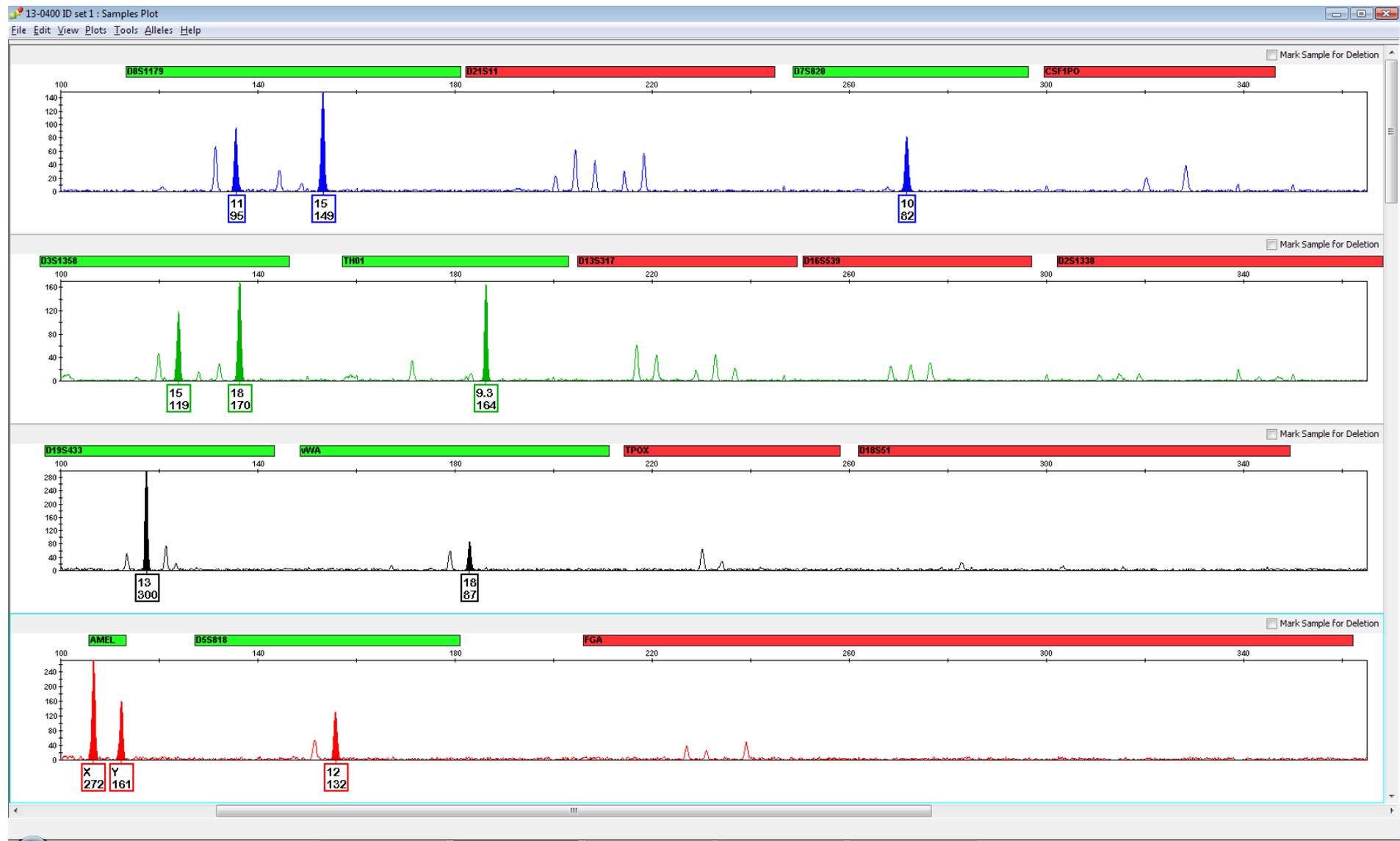


Presence of both X and Y indicates a male donor.

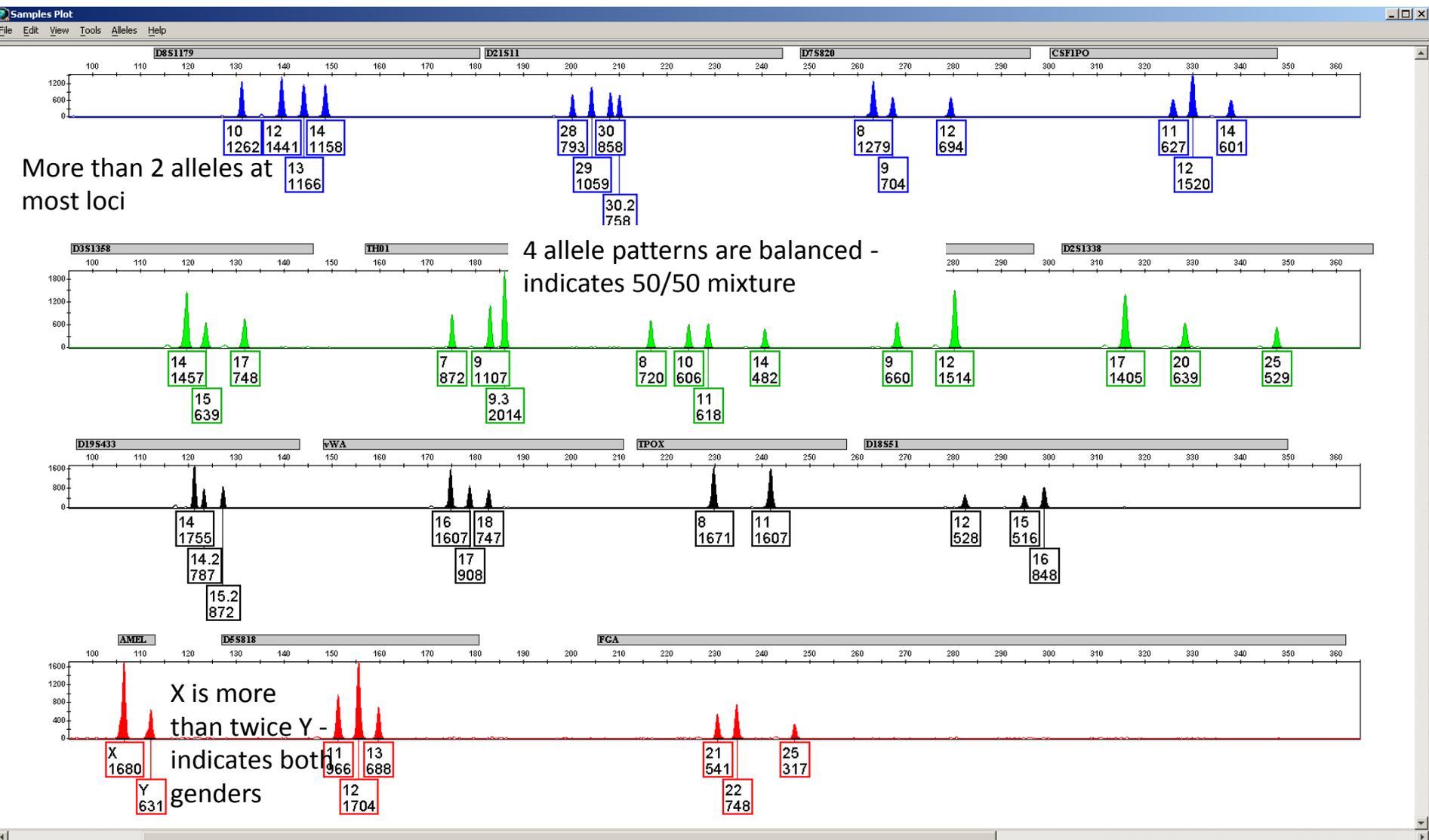
Reagent Blank DNA Profile



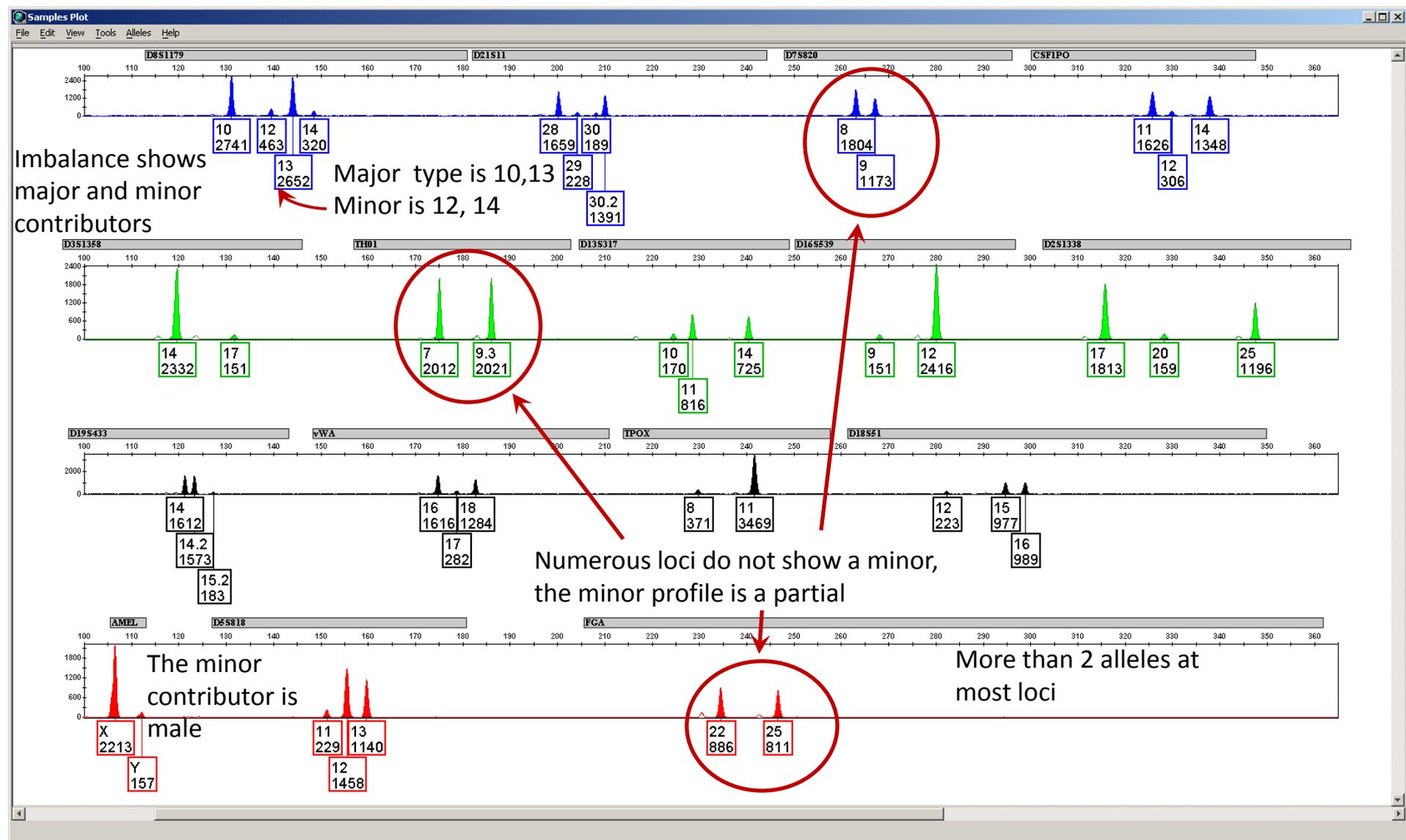
Partial Single(?) Source Profile



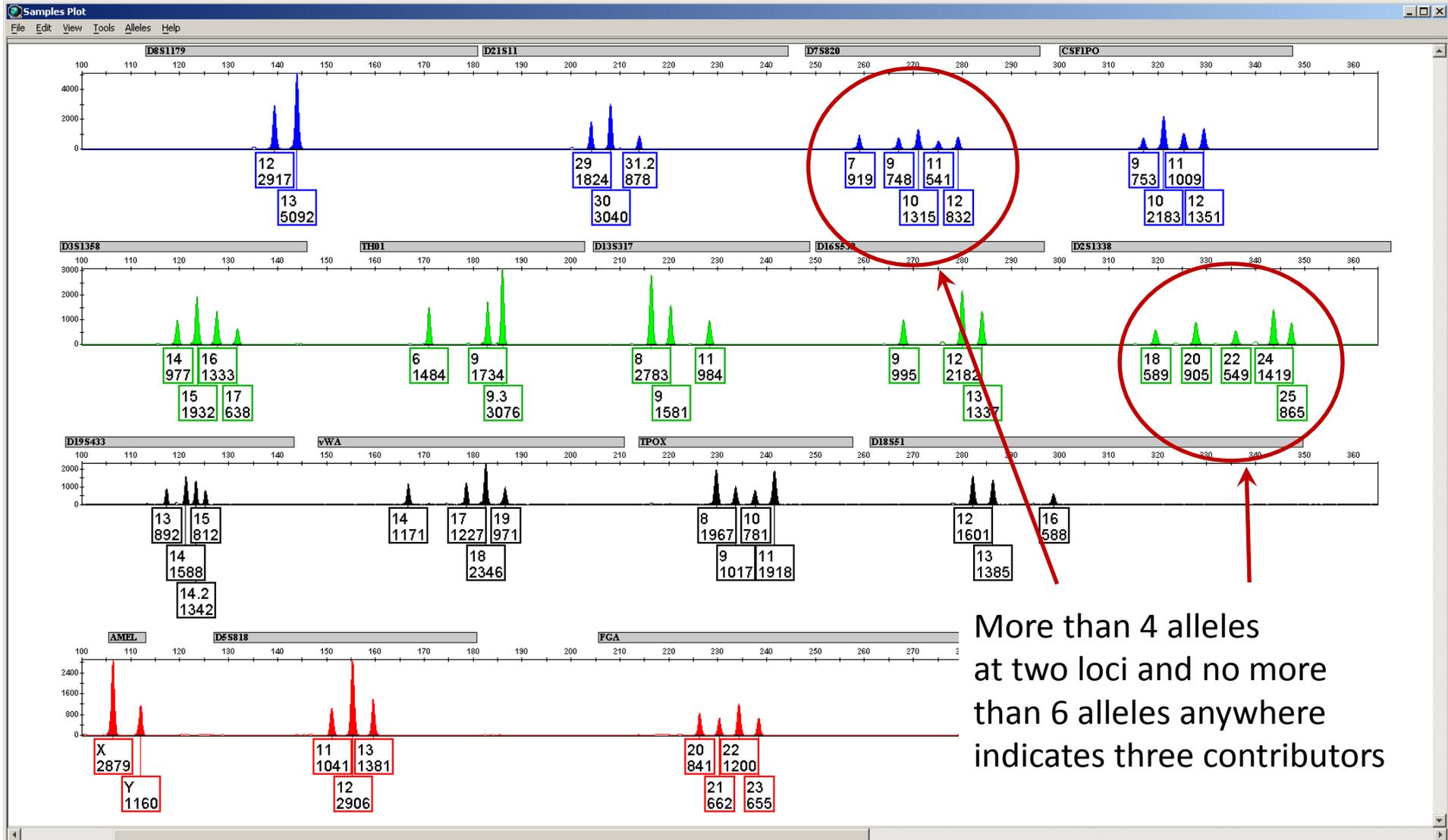
A Mixed DNA Profile



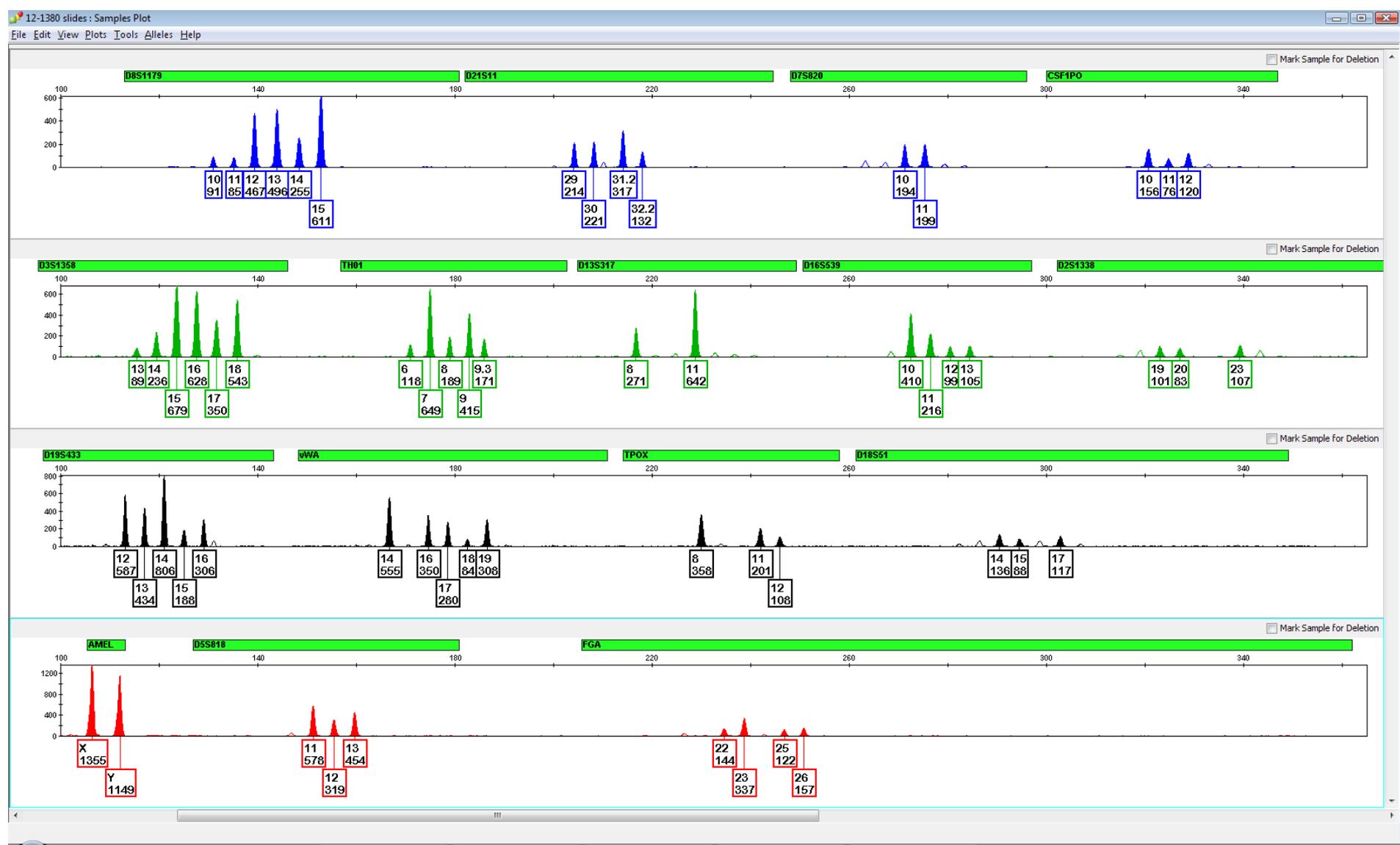
A Mixed Major/minor DNA Profile



Mixture Of At Least Three Contributors



Multi-Contributor Degraded Mixture

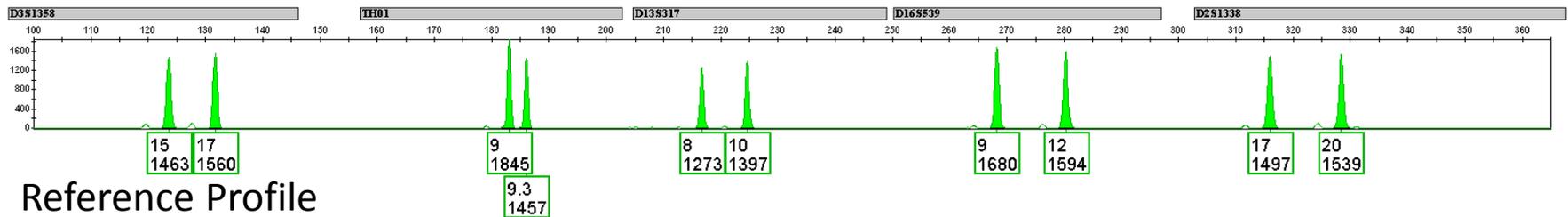
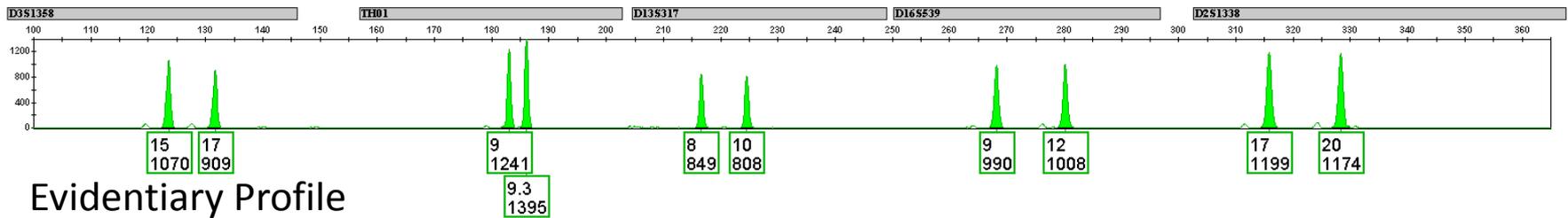


Basic Interpretation

- If alleles of a reference profile are found in the evidence profile – inclusion
- If evidence profile shows evidence of drop out, inclusion is still possible for reference profile
- If evidence profile shows different alleles than reference profile, exclusion
- Case samples can be much more complicated than these examples!!

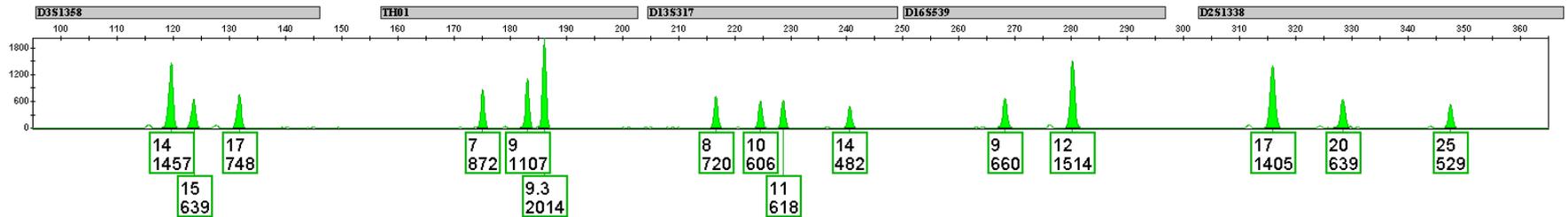
Single Source Evidence Profile

- For sake of brevity, only 1 color channel shown

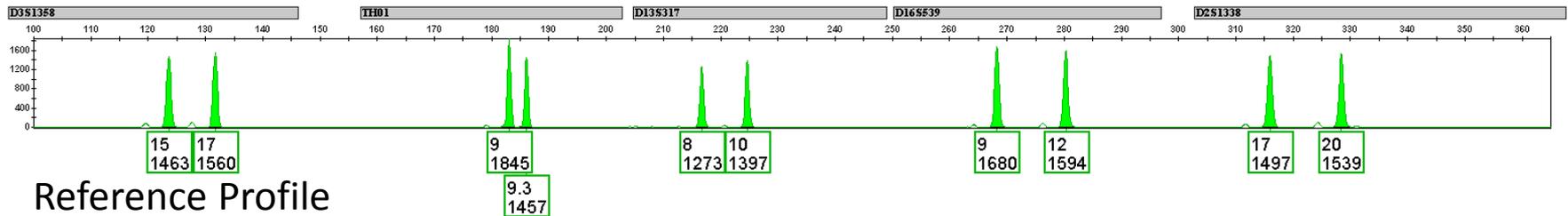


Reference matches the evidence

Mixture



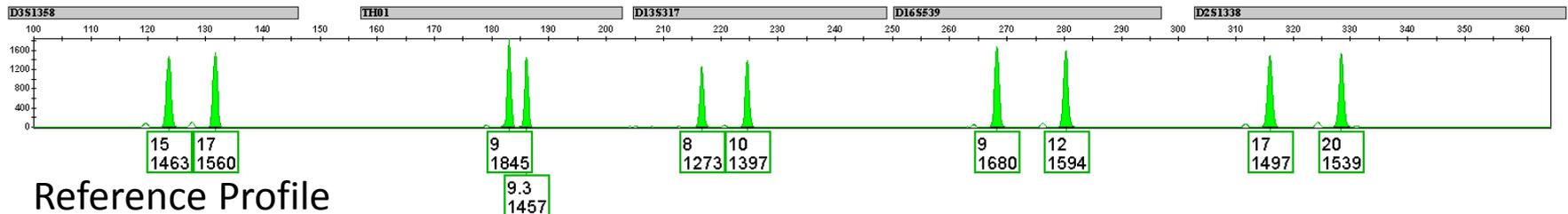
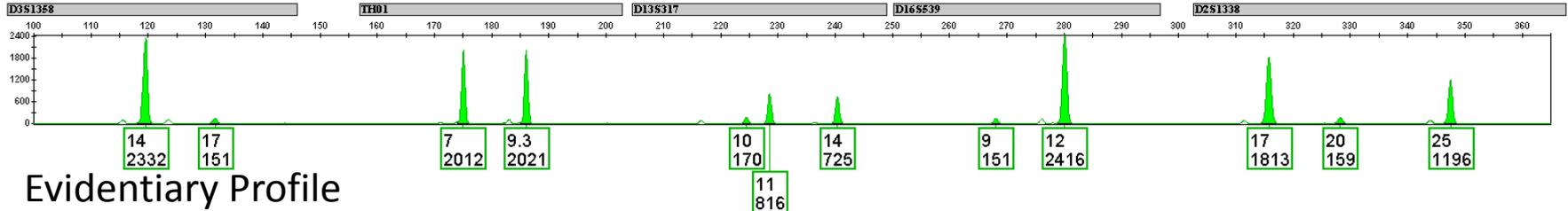
Evidentiary Profile



Reference Profile

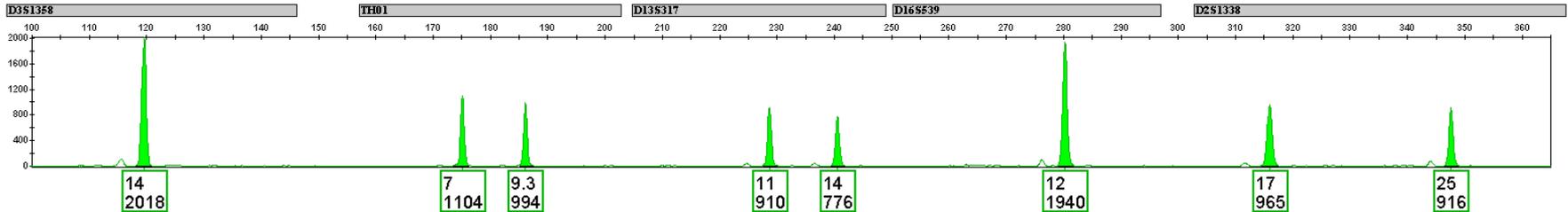
All alleles of Reference are found in evidence,
Reference included as a possible contributor to the
mixed DNA profile

Partial Minor

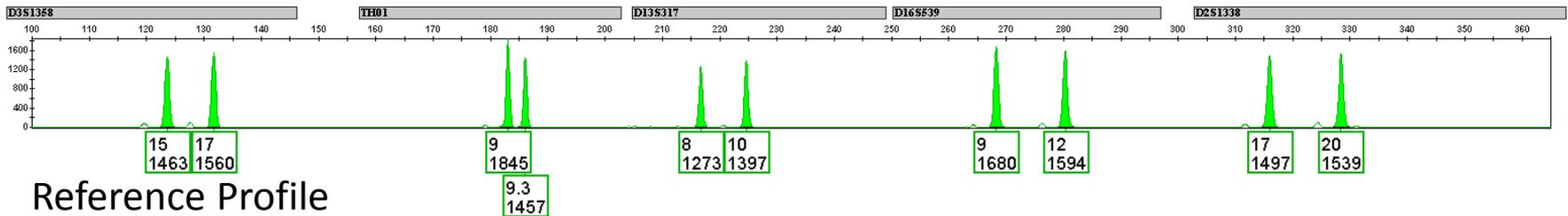


- Not all alleles of reference found in evidence
- BUT all minor alleles in evidence found in reference
- Possible dropout of minor in evidence, but nothing in minor not found in reference
- Reference cannot be excluded/is included as a possible source of partial minor profile

Single Source



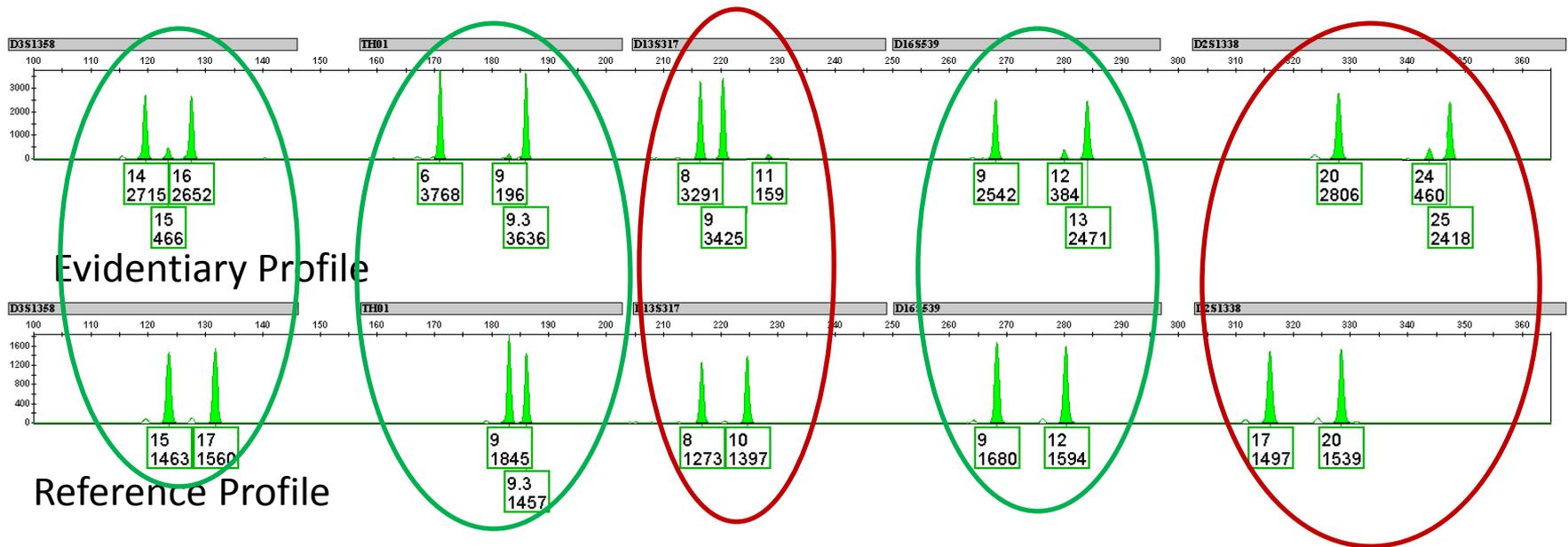
Evidentiary Profile



Reference Profile

- Evidence profile is single source
- Evidence profile has alleles not found in the reference profile
- Reference is excluded

Major/minor



- Evidence profile is Major/minor mixture
- Some loci contain no exculpatory information
- BUT two loci contain alleles NOT in the Reference
- Reference is EXCLUDED as a source

Why we need standards

- Consensual partners
 - Husbands and boyfriends
 - Keep the “unknown” profile from CODIS
- Victim standards
 - Allow for better interpretation of the male donor (CODIS)
 - Stronger statistics

Why we need standards

- Subject standard needed for any interpretation
- Related people (family situations)
- Roommates may be applicable

Statistics

- 27.5% of all statistics are made up

Statistics

- Gives weight to match or inclusion
- Is NOT the probability “someone else did it”
- Random Match Probability (RMP) approach – what we have always used
- Likelihood Ratio (LR) – what we are putting into place
- Note: This talk will use a simplified version of RMP using the product rule

How Stats Are Calculated

- Quick primer on stats:
 - There are data bases the tell how rare or common any genetic marker (allele) is in a population
 - Ex: Allele 10 at locus D8S1179 (a location found on chromosome #8) is found in 10.2% of Caucasians
 - We can multiply alleles to get a “genotype frequency”
 - $2pq$ for a person with two different alleles
 - p^2 for a person with two of the same alleles
 - This is simplified (called the product rule)

How Stats are Calculated

- If a person has a 10 and a 12 at D8:
 - 10 = 10.2%
 - 12 = 14.54%
 - $2pq = 2.97\%$
- If a person is a 12,12 (two copies of 12)
 - 12 = 14.54%
 - $p^2 = 2.11\%$
- So about 3% of the population is 10,12 and a bit over 2% is 12,12

How Stats are Calculated

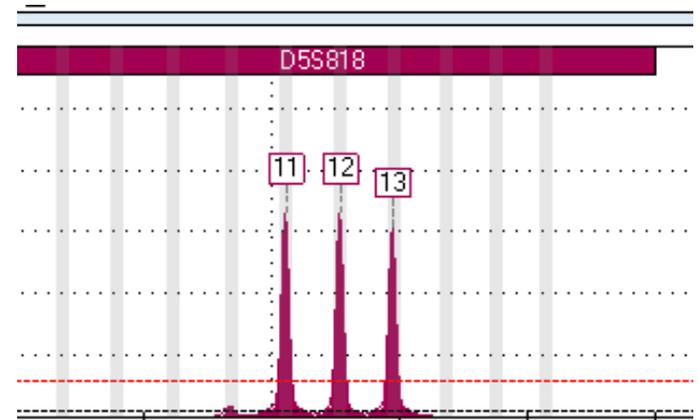
- We don't report the %, we do $1/X$ to give something that reads 1 in X people would have the genotype (profile) from the crime scene
- We just did two genotypes:
 - $2.97\% = 1/.0297 = 1$ in 33.7 people
 - $2.11\% = 1/.0211 = 1$ in 47.4 people

Loci Are Multiplied

- We test 15 loci:
 - Locus 1 genotype = 17% or 0.17 = 1 in 5.8 people
 - Locus 2 genotype = 4.5% or 0.045 = 1 in 22.2 people
 - Locus 3 genotype = 0.8% or .008 = 1 in 125 people
 - Etc.
- Multiply them together
 - $0.17 * 0.045 * .008 = 0.0000612 = 1$ in 16,339 people

Mixtures Add in More Types

- This is simplest 2-person
- Possible genotypes are:
 - 11,11 and 12,13
 - 12,12 and 11,13
 - 13,13 and 11,12
 - All these types must be in the stat (3 populations)

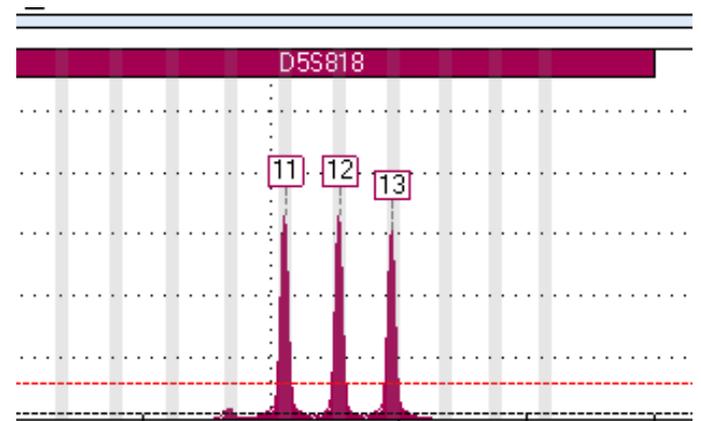


11	11	12	12	13	13	11	12	11	13	12	13	Add Combo ▼	0.8348
0.1708		0.1275		0.0226		0.2904		0.1200		0.1035			0.7476
0.0701		0.1287		0.0616		0.1857		0.1276		0.1738			0.6581
0.1798		0.0865		0.0101		0.2448		0.0810		0.0559			

- They add up to 0.8348 or 1 in 1.2 people

How References Help

- When we know the type of someone that is supposed to be there, we can look at what is left and do a stat just on that contributor(s)
 - Assume this is intimate swab of V
 - V known type is 11,12
 - Therefore Unknown is 13,13
 - $13,13 = 0.0226 = 1 \text{ in } 44$

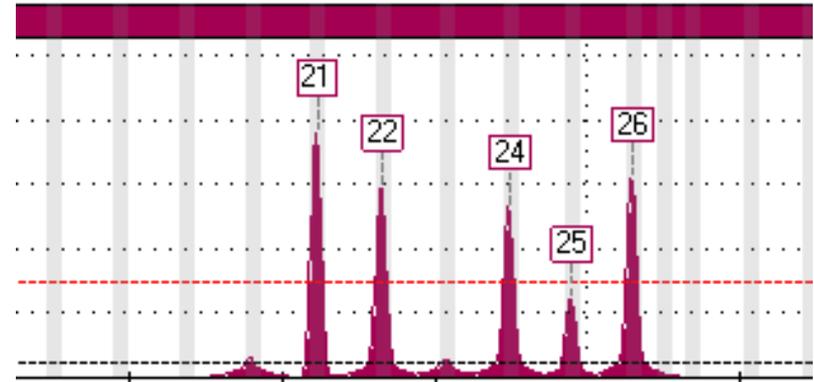


With and Without Reference of V

- Without:
 - 6 genotypes, 1 in 1.2 people would randomly “fit” into the mixture
 - That kind of rounds to 1 in 1 meaning the whole world could be the semen donor (well, the men)
- With:
 - 1 genotype, 1 in 44 people would randomly “fit”
 - Even with only one locus, how many groups of 44 people had access to that crime scene at that time

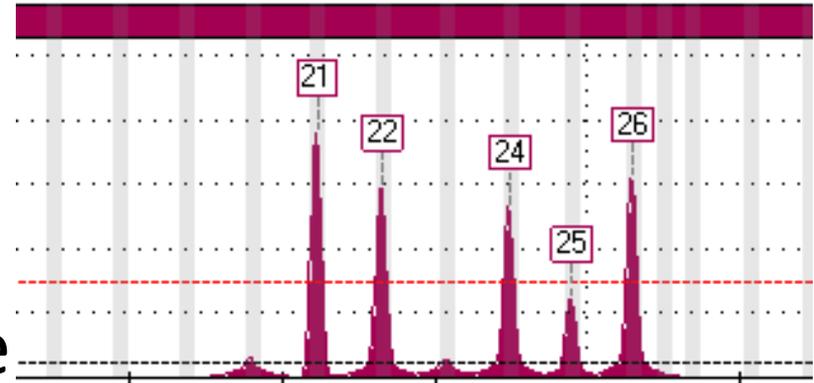
How Does This Apply to 412?

- 3 Person mixture
- Assume V has a 25
- We have four alleles left
- But we don't know who else she had sex with
 - She chose not to divulge
 - And to protect her rights, a 412 hearing says no discussion of other partners comes in
- But now I must include 7 combinations
 - They add up to 0.1875 or 1 in 5.3



How Does This Apply to 412?

- 3 Person mixture
- Assume V has a 25
- Now with consent sample
- Consent is 22,24
- Therefore, the remaining person must be:
 - 21,26 which is 0.0062 or 1 in 161 persons
 - And the Accused is a 21,26



The Range of Stats

- I've gone to trial with a stat of 1 in 4
- I've gone to trial with a stat of 1 in X Octillion
- One sounds more impressive than the other
- In some 3 person mixture, the stat may be as low as 1 in 100's with no references
- With V + prior partner/consensual/husband/random guy from the bar... (whatever is true) the same stat could be 1 in Millions or Billions

How Does This Apply to 412?

- It is considered a “requirement” to state number of contributors in a DNA mixture
 - It is not “accepted in the field” to ignore or obfuscate this
 - But this will bring up “other” sex if there is a 3rd person/2nd guy found
- If I were the prosecutor, I could possibly work around this, but only because I’m also a DNA expert

So What's That Mean?

- It helps us when the Victim is as forthcoming as possible about prior/additional contributors
- The testimony is “safer” when we discuss it
- The way to maximize the evidence is to have all relevant references and scenarios represented and to
- This is also most fair to accused
 - LR stats favor the accused when they should
 - If accused doesn't fit a defined hypothesis, exclusions result

What Does a Negative Report Mean?

- There are times when the lab issues a report that says “No semen was found anywhere. No DNA was found anywhere. We didn’t find a thing in fact.” (or words to that effect)

- Let’s be clear on this for your clients:

THIS DOES NOT MEAN THAT SHE WAS NOT ASSAULTED.

There are any number of explanations for a negative report. Just ask us.

Thanks for Listening

- This was a bit of a different focus than usual training
- I hope you learned about DNA in general and hypothetical situations (Occam's Razor)
- I hope you learned why it's best for us to have all information and partner(s) references
- I hope you see that this is best for both Victim and Accused
- Call me anytime with questions