Communications Between Individuals With ID/DD & Law Enforcement

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Challenge To Our Comfort Zone

Fear of the unknown

Key to effective communication
Recognizing our commonality
Keeping emotions in check

Too quick to judge?

Lack of eye contact Memory deficits Language deficits Responding to stimuli Evasive Inattentive Withholding info Uncooperative

Glen Ridge & the Pursuit of Justice 1	for
Individuals with ID/DD	



"A rape case 25 years ago revolutionized justice for people with intellectual disabilities. They were 'unwinnable' rape cases, until prosecutors figured out the secret."

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Laying the Groundwork		

Learn As Much As Possible About Your Victim/Witness

Caretakers Counselors Educators Friends/neighbors Employers

Get To Know The Individual On A Personal Level Investment in time Initial meeting Neutral ground Comfortable surroundings Victim Centered/Trauma Informed Approach The person comes first, the case comes second More that just using People First language Appreciate the multifaceted aspects of the individual	
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Keep Open the Lines of Communication Remain accessible to victim/witness & family/guardian during course of case Be cognizant of the legal rights of the adult victim/witness with a disability Seek a guardian ad litem if necessary Manage expectations Prepare for negative consequences	
Maintain A Welcoming Environment Accessible location Ensure privacy Consider using a child advocacy center	

Foster a Sense of Security Recognize individual's concerns for personal safety	
Create Lines Of Communication Individual may have multiple disabilities, including attention deficit disorder, that hinder maintaining focus Limit movement Control environmental factors noise lighting	
Create Lines Of Communication (Cont.) Adjust language to level of individual Be concrete, not abstract Communication impaired Recollection not impaired Use simple, not compound, questions	

Prevent Intimidation Allow witness appropriate "space" Moderate tone of voice	
Maintain an Appropriate Pace Don't expect rapid question & answer Be aware of witness fatigue Unfocused Allow for breaks as appropriate Rest Personal comfort Nourishment Medication Avoid rushing the interview process	
Utilize Truth Seeking Questions Use non-leading, open-ended questions Be aware of the false positive "yes" response Desire to please questioner Desire not to look foolish Allow victim to explain answer Be non-judgmental	

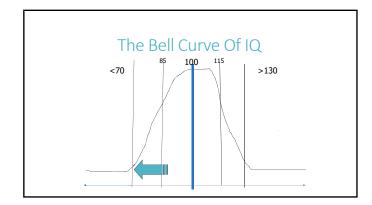
The Need for Accommodation	
Making Assemmedations for the	
Making Accommodations for the	
Disability	
Legal system often overwhelming for persons with disabilities	
Be accommodating in a non-accommodating system	
Utilize the Administrative Office of the Courts Court Access Services	
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Legal Basis for Accommodation	
NII Court Art 1 and 22 "A victim of a miner shall be transfered with fairness	
NJ Const. Art. 1, par. 22: "A victim of a crime shall be treated with fairness, compassion and respect by the criminal justice system."	
Fundamental right of access to the courts by individuals with disabilities [Tennessee v.	
Lane, 541 U.S. 509, 533-34 (2004)] Developmentally Disabled Rights Act (NJS 30:6D-4): "No developmentally disabled	
person shall be presumed to be incompetent or shall be discriminated against or shall	
be deprived of any constitutional, civil or legal right solely by reason of residence at a facility or receipt of any service for developmentally disabled persons."	

A Question of Competency	
Evid. R. 601 - "Every person is competent to be a witness"	
Limited exceptions: Unable to be understood Incapable of understanding duty to tell the truth	
General <i>presumption</i> of competency	
Not incompetent to testify merely because individual is developmentally disabled, has a mental illness or communication impairment	
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Assessing Competency	
Truth vs. Lie	
Punishment if lie	
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Use Alternative Means to Distinguish	
Truth from Lie	
Colors Clothing	
Weather Faith-based beliefs	
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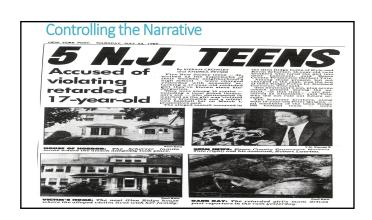
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Augmentative & Alternative	
Communication	
Witness with a disability may have a communication impairment	
Vocabulary limitations to express thought	
Speech deficit/defect	
Be aware of complex communication needs	
Allow for intelligible communication Communication boards	
Voice enhancement	
Interpreter services	
Augmentative & Alternative Communication	
(Cont.)	
Need for demonstrative evidence	
Anatomical dolls Use of anatomical dolls applicable to sexual assault victims under age 16 (NJS 2A:84A-	
16.1)	
Anatomical drawings Demonstrations	
Replica evidence	
Beware of communication techniques not accepted in the scientific	
community Facilitated Communication (FC)	
State v. Stubblefield, 450 NJ Super. 337 (App. Div.), certif. denied 231 NJ	
405 (2017)	
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From the Interview Room to the	
Courtroom	
Courtiooni	
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Familiarize Victim/Witness With The Process	
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Take to empty grand jury room	
Sit in on a trial "Practice" in an empty court room	
Practice in an empty court room	
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Consider the Use of Closed Circuit	
Testimony (<i>N.J.S.</i> 2A:84A-32.4)	
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Available in cases involving sexual offenses, trafficking involving sexual activity, endangering the welfare of a child, and domestic violence	
Need to show substantial likelihood that victim/witness would suffer severe emotional or mental distress if testify before defendant/spectators/jury	
emotional of mental distress in testify before defendanty spectators/jury	
Facilitating Communication in Count	
Facilitating Communication in Court	
Individual may seek comfort/support in person known to witness	
State v. T.E., 342 NJ Super. 14 (App. Div.), certif. denied 170 NJ 86 (2001) – adult support person may sit in close proximity to child victim of sexual abuse while	
testifying upon showing of substantial need	
Service animals	

The Conundrum of Loading Ouestions	
The Conundrum of Leading Questions	
Necessary to focus witness	
Danger of false positive response	
Need to distinguish State's form of questioning from that of the defense Give the witness the opportunity to explain on re-direct	
Give the witness the opportunity to explain on re-unect	
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Conducting <i>Voir Dire</i>	
Conducting von Dire	
Allow for Prosecutor to assist in conducting voir dire of witness	
State v. T.E., 342 NJ Super. 14, 26 (App. Div.)(allowing prosecutor's de facto administration of oath to child victim), certif. denied 170 NJ 86 (2001)	
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Utilize An Expert	
Othize All Expert	
Explain nature of disability	
Possible use of lay opinion testimony Compare cognitive ability of victim to that of peer without a disability	
Mental age	
Grade level Consider witness order	
Consider Withess Order	







Prosecution ethics & police supervision requirements Initial statements to inform public Statements during court proceedings Align interests with advocacy groups

