

CHAPTER 4

INTERVIEWING

Why Teach Interviewing in a Clinic Seminar?

Interviewing is an essential “building block” lawyering skill. Virtually all lawyers, regardless of practice area, interact with people from whom they must obtain information. As a result, an interview provides fertile ground for issues that are likely to arise throughout the clinic experience and across numerous lawyering contexts. In addition, the interview is the most common context in which a lawyer first meets and begins to form a relationship with a client. Because that relationship, in turn, frames much of the lawyering experience, the capacity to conduct a successful interview is a crucial component of excellent lawyering.

Of all the skills one might teach in a clinic seminar, interviewing is the one with which students are most likely to have had previous experience. They probably have been interviewed themselves to gain admission to an academic program or to obtain employment. Many students also have had experience conducting interviews, in situations where the interviewee is a subject for a research project, a candidate on behalf of an undergraduate admissions office, or an applicant for membership in an organization to which they belong. In a less formal context, they may have asked an extended series of probative questions to elicit information from service providers such as physicians or phone and internet companies.

They are even more likely to have “interviewed” a friend in an effort to fully understand a complex personal situation.

Given the likelihood that students have had such prior experiences, it may be tempting to conclude that despite its essential nature, interviewing does not need to be taught in a clinic seminar. But as with any other lawyering skill, experience alone is rarely enough to create real expertise. Few students have spent time consciously analyzing and reflecting on what makes an interview effective. Clinic can (and should) provide an opportunity for such reflection, so that a student can purposefully replicate what they have done well and improve what they have done less successfully. The seminar is a particularly apt place to consider this skill because students often assume that all interviews are conducted in essentially the same way. Observing a range of approaches implemented by colleagues can be an illuminating experience, freeing students to find ways to discover their own individual interviewing style. There is fertile ground to mine here; most students find interviewing far more challenging than they expect it to be.

Why is conducting a legal interview so challenging? In large part, the difficulty stems from the fact that an initial interview typically involves two or more people meeting for the first time, in a context where one (the client) needs to impart information that may be deeply personal and private, may have substantial personal, professional, political, or financial consequences, and about which he may feel an unsettling of lack of control. The other person (the student) may lack essential expertise and concrete knowledge, be worried about whether she is presenting as sufficiently professional, or feel unable to make an informed professional judgment. The student also may feel a disquieting general sense of insecurity; this may stem from the student’s novice status or concern about bridging cultural gaps that may exist between student and client.

In addition, although previous interviewing experience might be of some real value in clinic, it is not likely to map perfectly onto the process of conducting an interview in a professional role. The fact that students are now approaching an interview *as a lawyer* affects their goals, the constraints within which they must operate, and the interviewee’s expectations. With so much going on beneath the surface, it is hardly surprising that it can be so difficult to engage in a successful interview.

Factors to Consider in Planning an Interviewing Class

Learning Goals

The possible goals for a class on interviewing may include the following:

- Helping students understand the importance of and develop strategies for establishing rapport and communicating empathic understanding.

To assess learning in relation to this goal, look for student behaviors such as:

- Active listening
- Empathic verbal responses
- Attentive, open body language
- Helping students learn how to obtain concrete, detailed facts from a client or potential witness.

Look for:

- Funneling—moving from broad, general questions to narrower, more detail-oriented follow-up questions
- Following natural curiosity
- Identifying informational gaps and inquiring about them
- Helping students understand the importance of active listening and the variety of factors that can serve as facilitators and inhibitors of conversation.

Look for:

- Open body language
- Comfort with pauses, silence
- Accurate reflection back of what has been said
- Helping students overcome any instinctive avoidance of or awkwardness or embarrassment about difficult, uncomfortable, or negative facts.

Look for:

- Direct inquiry about potential problem areas
- Strategic thinking about how to best frame these areas of inquiry

- Verbal and non-verbal indicators of comfort
- Helping students overcome concerns about bridging cultural and other differences between student and client.

Look for:

- Strategic thinking about how to best approach areas of difference
- Direct inquiry about unfamiliar vocabulary terms
- Verbal and non-verbal indicators of acknowledgement of and comfort with difference
- Helping students understand the unconscious tendency to fill in gaps in factual knowledge with assumptions based on one's own experience.

Look for:

- Articulation of the way unconscious assumptions fill in informational gaps
- Identifying and avoiding conclusions based on informational gaps
- Pushing through to uncover underlying facts
- Helping students maintain client-centeredness, in part through ensuring adequate exploration of both legal and non-legal options.

Look for:

- Open, genuine inquiry into clients' goals
- Engaged review of non-legal as well as legal options
- Resistance to a reflexive leap to pursue legal options alone
- Helping students appreciate the *Rules of Professional Conduct* as they apply to the lawyer–client relationship.

Look for:

- Identification of ethical issues likely to arise
- Planning for possible responses to such issues
- Explicit discussion of confidentiality and attorney-client privilege at appropriate moments
- Provision of clear answers to client questions about the meaning of various ethical rules

Common Student Misunderstandings

Students often approach the task of interviewing with the preconception that the dynamic will be a straightforward, simple one. They assume that if the interviewee is a client or friendly witness, he will tell the whole truth and nothing but the truth; if the person is a hostile witness, he will lie about everything. Sometimes, when they suspect that a client has not been fully accurate in telling a part of his story, or has withheld some information, they jump to the conclusion that the client is a liar. Few students understand the range of issues that might result in reluctance to reveal information to a lawyer. Without this understanding, students can miss important opportunities to exercise strategic choices about whether, how, and when to try to obtain certain types of information.

Many students also are unaware that most, if not all, of us have an unconscious tendency to hear people's stories through our own frames of reference. Instead of diligently probing for concrete factual details, we often fill in informational gaps with assumptions based on our own values and life experiences. A student who fails to recognize this tendency is likely to conduct an interview that misses substantial details or results in a fundamental misunderstanding of the story being told. This tendency may be exacerbated by student anxiety about the interview, or by student over-eagerness to assure the client, early on, that they fully understand her situation.

Clinic students often fail to understand the ways in which their newly assumed professional role can affect the interviewing process. Clients often expect their lawyers to take on a leadership role; as a result, they may respond to student questions, but may not take responsibility for raising additional topics. A student who does not understand this interpersonal issue may miss the opportunity to make strategic choices about how to create a more collaborative dynamic with a client or witness.

In addition, law students may assume that the legal field has no equivalent to medicine's "bedside manner." This assumption is particularly problematic for students who are inexperienced in establishing connections across substantial differences in life experience, age, race, class, and education. And there is a risk that some students who had strong interpersonal skills before entering law school have lost them in the competitive, non-collaborative environment that dominates the traditional curriculum. For example, in a domestic violence clinic where a client tells a student that her husband has recently stabbed her with a knife, a common student response is simply, "How big was the knife?"

Finally, most clinic students are understandably eager to put their legal training to use in service of a client. This can lead them to assume

too quickly that a client's primary problem is in fact a legal one. As the saying goes, if you have a hammer, everything looks like a nail.

Planning the Class

Interviewing is such an essential and potentially challenging lawyering skill that some clinicians may wish to devote multiple classes to the subject. This might be done with a basic and an advanced class, with the latter focusing on more complex issues, or with a first class focused on client interviewing followed by another on other kinds of witnesses—adverse witnesses, expert witnesses, etc. The class set out in this chapter is a basic, introductory one, focused on client interviewing.

This class complements other clinic seminar classes focused on client counseling and storytelling. In those classes, students focus on understanding the client in a holistic sense, adopting a narrative framework to think expansively about the client's situation and goals. Here, the focus is primarily on chronological probing, the disciplined process of asking questions in a strict linear framework. Although both approaches are crucial to high-quality lawyering, many students are reluctant or unable to move past generalities and obtain concrete details about a full universe of facts. This class is designed to help students understand how to successfully utilize this approach to the interviewing process.

Reading Assignments

1. Jean R. Sternlight & Jennifer Robbennholt, *Good Lawyers Should Be Good Psychologists: Insights for Interviewing and Counseling Clients*, 23 OHIO ST. J. ON DISP. RESOL. 434 (2007-08).
2. Clark D. Cunningham, *What Clients Want From Their Lawyers* (2006), <http://law.gsu.edu/Communication/WhatClientsWant.pdf>.
3. Lisa Sanders, *The Facts and What Lies Beyond*, in EVERY PATIENT TELLS A STORY: MEDICAL MYSTERIES AND THE ART OF DIAGNOSIS 3 (2009).
4. Victoria Healey-Etten & Shane Sharp, *Teaching Undergraduates How to Do an In-Depth Interview: A Teaching Note with 12 Handy Tips*, 38 TEACHING SOCIOLOGY 157 (Apr. 2010).

Assignment in Preparation for Class

Ask the students to draft a memo in response to the following assignment:

Think of an experience you have had conducting an extended interview with someone you did not know well. Any context will do, including interviews of a subject for a research project, a candidate for admission at your undergraduate institution, an applicant for membership in an organization to which you belong, or a service provider of any kind. What is important here is that you were in a situation where you needed to ask a comprehensive series of questions in an effort to get a full understanding of a situation or story.

Note your responses to the questions below, and be prepared to discuss your thoughts in class.

- What was the most challenging aspect of the interview for you?
- What actions did you take (or what things did you say) that facilitated the interview?
- What actions did you take (or what things did you say) that hindered the interview?
- What surprised you most about this experience?
- What did this experience teach you about successful interviewing techniques?
- What did this experience teach you about communicating effectively with a person whom you do not know well?

Warm-Up Exercise: Brainstorming Interviewing Concerns

Note explicitly that many students are somewhat nervous about their first clinic client interview. Conduct a full group brainstorming session, asking the students to name their biggest concerns as they anticipate this experience. Record the list of the group's concerns on the board.

Explain to the students that although it is difficult to work through these concerns in the abstract, the group will have an opportunity to do so in the context of the upcoming role-play exercise. After the role-play is fi-

nished, the group will review the list on the board and try to draw connections between the concerns raised and their experience in conducting the interview exercise.

CLIENT INTERVIEWING OUTLINING GOALS AND INTERVIEW ROLE-PLAYS

Assignment

Group Brainstorm

Ask the students to brainstorm their goals for an initial client interview. This is not a time to come up with specific questions they might ask; the focus is on the broad, overarching goals for this task. Put the list of goals up on the board.

A typical list of goals for a litigation clinic might include:

- Establishing a trusting relationship with the client (this could include initial introductions, breaking the ice, an overview of the clinic structure and the students' role, counseling about attorney–client privilege)
- Obtaining the basic facts relevant to the case, as well as broader contextual facts
- Obtaining information about potential factual weaknesses in the client's case
- Assessing the client's needs and goals
- Educating the client about the legal system and available relief

A typical list of goals for a transaction or project-based clinic might include:

- Establishing a trusting relationship with the client (this could include initial introductions, breaking the ice, an overview of the clinic structure and the clinics' role, counseling about attorney–client privilege)
- Obtaining the basic facts relevant to the project or transactional goal, the client's current situation, and the scope of community support

- Obtaining information about potential factual weaknesses related to the legal project
- Assessing the client's needs and goals
- Educating the client about the legal system and available relief

Set Up

Use the students' list of goals to structure a mock interview. Explain that you (or a colleague with whom you have collaborated to plan the exercise) will role-play a potential client seeking help from the clinic. The students have scheduled an initial interview with the client, and their job is to plan for and then conduct the interview.

Divide the students into small groups and assign one of the goals from the students' list to each group. Because the goal of "obtaining the basic facts" is such a substantial part of an initial interview and a major focus of this exercise, break that goal into two parts.

For a Litigation Clinic

Divide the goal as follows:

- The most recent issue that brought the client to the clinic for help
- Previous history of related facts and general background, contextual facts

For a Transactional Clinic

Divide the goal as follows:

- Client group's goal and current structure
- Scope of support for the project/transaction internally, within the client group, and externally, within the community

Assign one group to each of the two sub-goals. Next, assign each group to develop one segment of a client interview, focusing on obtaining and sharing information relevant their assigned goal. Explain that each group may divide up its portion of the interview in any way they like; the only rule is that every student must assume part of the active interviewing role. Give the students approximately 15 minutes to develop their interview segments.

Assignment

Conduct a mock interview, with the students role-playing themselves and the clinician (or a well-briefed colleague) role-playing a potential clinic client. After each student group is finished with its portion of the interview, stop the role-play and facilitate a debriefing conversation with the entire class, based on the learning prompts set out below. Assign a student or a clinic staff member to gently remind role-players if they stray into another group's assigned task.

As indicated below, for some segments of the interview the debriefing discussion may be followed by a "do-over," with the entire class participating in the process, to give the students a second chance to successfully accomplish the relevant goal.

Conducting the Role-Play

This section is designed to guide the instructor step-by-step through the interview role-play. The guide is divided into a series of role-play segments, structured according to the interview goals and segments to which the small groups have been assigned. Each segment centers on a set of commonly occurring interviewing challenges, designed to be raised by the interviewee and managed by the students. By creating these challenges in advance, a clinician can ensure that students will have the opportunity to explore some of the essential obstacles frequently faced by novice interviewers.

Each role-play segment is followed by a set of debriefing prompts, designed to support the student learning goals identified above and facilitate a full group debriefing discussion, to be held immediately after the role-play segment is finished. Although the interviewing "facts" will differ depending on the particular script being used, the challenges and debriefing prompts can be used across all clinics and all scripts.

At the end of this chapter, we have laid out two fully developed sample role-play scripts: one for a domestic violence clinic, and one for a criminal defense or juvenile delinquency clinic. These scripts can be used as is to support this exercise. In the alternative, these scripts can serve as models for clinicians who wish to develop their own scripts, consistent with their own clinics' specific subject matter.

Structuring the Role-Play Exercise

Role-Play Segment I: Establishing a Trusting Relationship

Issues to Plant in This Segment

Establishing a trusting relationship with a client is, of course, a long-term project that continues throughout the course of a representation, and students will need to consider this issue during their entire relationship with a client. However, the first few minutes of an initial interview can be a crucial component of this task, and the focus here is on thinking through ways to establish trust and connection at this point.

Several challenges routinely arise in initial student interviews in relation to establishing trust. These issues can be “planted” in this initial segment of the role-play to ensure that the students will have an opportunity to discuss them during the debriefing conversation.

1. **Student Role Issues:** The person role-playing the client should have an obvious, slightly exaggerated reaction when the students describe their status as students, rather than attorneys. For example, the client might appear visibly uncomfortable, and say, “Oh, you’re not real lawyers?” If the students fail to raise the issue, the client should raise it himself. For example, the client might interject at some appropriate point, “I’m so glad I found lawyers who are so experienced!” Either way, this will push the students to consider the complex challenge of explaining their novice status while meeting their goal of establishing trust.
2. **Confidentiality Issues:** If the students raise the issue of attorney–client privilege, the client should respond in role. If, as frequently occurs, the students exaggerate the scope of the privilege or describe any aspect of it incorrectly, the client should make clear that she is left with a significant misunderstanding. For example, she might say, “Oh, that’s *great!* So you can’t *ever* tell *anyone* anything I’m sharing with you, right?” If students fail to raise the issue, the client should note that she has concerns regarding the confidentiality of their conversation. For example, the client might say, “Are you going to tell anyone else about this?” Either way, the students will need to consider how to effectively communicate about the scope of confidentiality.

Facts to Support This Segment

The three scripts included at the end of this chapter lay out a complete set of facts for this role-play segment, for use in civil, domestic violence, or criminal defense and juvenile delinquency clinics. Clinicians who wish to develop their own facts can do so easily by following the guide below.

Developing Your Own Introductory Facts

For this segment of the role-play, you can develop a set of introductory facts that are based on a typical case or project in your program. What is important to the exercise is that the facts include:

- Client's background: Name, address, persons residing with, education, and employment (if any), contact information.
- Student role: The client has been referred to the clinic, but knows nothing about the clinic structure or that students (rather than lawyers) are involved.
- Confidentiality: The client does not know anything about attorney–client privilege or confidentiality, and has some general concern about this issue.

Debriefing Prompts for This Segment

End this segment of the role-play at a natural breaking point. This will most likely occur when the students run out of questions. Explain that the students should now step out of role. The full class should participate in a debriefing discussion about this segment, based on the prompts below.

Learning Goal: Understand the importance of and develop strategies for establishing rapport and communicating empathic understanding.

Prompts

- The goal of this role-play segment was establishing a trusting relationship with the client.

- What are some concrete examples of things the students did or said that worked particularly well in accomplishing this goal?
- What might you have said or done differently?
- Do you think the client has a clear understanding of how the clinic works and what the student role is?
- Are you required to tell the client that you are students?
 - Why or why not?
- Why is this issue so difficult to deal with?
- What are some strategies for convincing a client to trust you even though you are not yet attorneys?

Learning Goal: Appreciate the Rules of Professional Conduct as they apply to the lawyer–client relationship.

Prompts

- Part of establishing a trusting relationship involves a clear understanding about confidentiality.
 - How did the students deal with this issue?
 - What are the strengths and weaknesses of this approach?
- Can anyone define the attorney–client privilege?
- What are some possible ways to translate this concept to a client?
 - What are the pros and cons of these different explanations?

Role-Play Segment II: Obtaining Sufficiently Detailed Facts Regarding the Potential Claim

Issues to Plant in This Segment

1. **Reluctance to Share or Confusion about Details:** To help students deal with the challenge of obtaining a detailed story, the client should be quite reticent when asked about the details of his situation. He should offer only a brief summary of what happened, and should withhold important details and events unless the students specifically ask about them. The scripts set out at the end of this chapter provide useful, step-by-step models for this process.

2. **Terminology Issues:** If a student uses “legalese” in the interview, the client should make clear that she does not understand the term, or should deliberately misinterpret its meaning, so that there is a demonstrated need for the students to explain or switch to more appropriate vocabulary.

Facts to Support This Segment

The scripts included at the end of this chapter lay out a complete set of facts for this role-play segment for use in civil, domestic violence, criminal defense and juvenile delinquency, or transactional clinics. Clinicians who wish to develop their own facts should follow the guide below.

Developing Your Own Facts Regarding the Potential Legal Claim

For this segment of the role-play, you can develop a set of litigation or project-based facts based on a typical case in your program. What is important to the exercise is that the facts include:

- Client’s potential legal claim, defense, or transaction: Include a full set of facts from a typical client situation, where the facts:
 - Are difficult to visualize without extensive probing for detail (for example, in our domestic violence script, instead of using a punch in the eye, we use an incident where the boyfriend throws a glass of water at a pan on the stove, causing grease to splatter and burn the client. It is not clear whether the glass itself was thrown or the water alone).
 - Occur over a period of time, so that the students can miss important events if they fail to probe chronologically.
 - Involve factual chaos that requires the students to come up with an organizational approach to move through each issue meaningfully.

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- Involve a crucial, highly probative detail that can be missed if the students fail to probe effectively (for example, in our domestic violence script the boyfriend was wearing Timberland boots when he kicked the client; in our criminal defense and juvenile delinquency example, the police continued to question the client after he requested a lawyer and asked him to sign a waiver of rights he did not understand; in the transactional example, the group that the client supposedly represents has no formal leadership structure).
- Include potential witnesses, stakeholders, or interested parties.

Debriefing Prompts for This Segment

Stop the role-play when the students have run out of questions or when another natural breaking point occurs. Explain that once again the class will step out of role and debrief the performance based on the prompts below.

Learning Goal: Learn how to obtain concrete, detailed facts from a client or potential witness.

Learning Goal: Understand the unconscious tendency to fill in gaps in factual knowledge with assumptions based on one's own experience.

Learning Goal: Understand the importance of active listening, and the variety of factors that can serve as facilitators and inhibitors of conversation.

Prompts

- Does everyone have a clear visual image of what happened to the client or what the client is seeking?
- How do you know when you have enough detail? What is your ultimate goal here, in terms of how you will likely use this information?

- What factors might interfere with a client’s ability or inclination to provide a fully detailed picture of what happened or is happening?
- What factors might interfere with your own ability or inclination to obtain a fully detailed picture?
- What strategies might you use to get past this combination of the obstacles that can exist in both the interviewer and the interviewee, to get the details you need?
- Looking back at the understanding each of you developed during the interview segment, does anyone see that he filled in, in terms of his own understanding of the story, factual details that were not actually stated by the client?
 - Why might that happen?
- Where do the facts that you use to “fill in” the gaps in other people’s stories come from?
- How likely are they to be an accurate fit for the client’s experience?

Re-Do: Probing for Factual Details

Let the students know that this skill—obtaining detailed factual information—is much harder than it first appears. Tell them that they will now have an opportunity to put some of the strategies they have just come up with into practice, by re-doing this segment of the interview together as an entire class. Their goal here is to try, in a disciplined, slow, careful way, to get the full picture of the facts in the most recent situation described by the client.

Sample Fact Summary for a Civil Clinic

Tell the students that they have already obtained the following facts (based on the role-play script at the end of the chapter): The client has received an eviction notice based on the claim that she “harbored a person who sold drugs on the premises.” She has a nephew who was convicted of possession of marijuana with intent to distribute, and she has permitted him to live with her on and off over the past 6 months.

Ask the students to start this segment of the role-play again and walk the client through what she knows about what her nephew has been doing while living with her. Tell them to walk their client through this part of the story step by step, making sure they obtain every single fac-

tual detail they can. All students should feel free to jump in with questions.

Allow the students to ask questions, but push them to stick with a step-by-step approach, designed to get every detail about the nephew's time in the apartment. If students jump ahead in time or switch topics, remind them to stay disciplined and walk through the chronology. If the students miss a crucial factual detail, push them to think about what they should ask next to be sure they cover everything.

The re-do exercise can stop once the students get to the point where they know the following: The nephew is in the apartment during the day, while the client is at work and the children are in school. Sometimes he has friends over, and she has smelled marijuana in the apartment. Review the difference between the information obtained from the first, less disciplined approach and this one, and note the reasons for the difference.

Sample Fact Summary for Domestic Violence Clinic

Tell the students to assume that they have already obtained the following facts (based on the role-play script at the end of this chapter): The client slept in yesterday. Her boyfriend woke her up and demanded that she make breakfast for him. She went downstairs and started cooking sausages on the stove. The boyfriend came into the kitchen, angry that she had served the children food before serving him. He said, "I'm going to teach you a lesson," and threw a glass of water at the stove. Grease splattered onto the client's arm, and she went to the hospital for treatment.

Ask the students to start this segment of the role-play again and walk the client through her story step by step, making sure they obtain every single factual detail they can. All students should feel free to jump in with a question.

Allow the students to ask questions, but push them to stick with a chronological, step-by-step approach. If students jump ahead in time or switch topics, remind them to stay disciplined and walk through the chronology. If the students miss a crucial factual detail, push them to think about what they should ask next to be sure they cover everything.

Once the students get to the point where the boyfriend is wearing Timberland boots when he kicks the client, the re-do exercise can stop. Review the difference between the information obtained from the first, less disciplined approach and this one, and note the reasons for the difference.

Sample Fact Summary for Criminal Defense or Juvenile Delinquency Clinic

Tell the students to assume that they have already obtained the following facts (based on the role-play script at the end of this chapter): Last night, the client was with his friend, who was trying to convince him to participate in a robbery. After some convincing, the client agreed. The two men went to the target house, where the client served as lookout while the friend put expensive jewelry in a bag. The friend gave the client the bag to take home, and while he was walking home, he was stopped by a police officer who discovered the bag of jewelry. He was taken to the police station and questioned, and eventually admitted his role in the robbery.

Ask the students to start this segment of the role-play again and walk the client through his story step by step, making sure they obtain every single factual detail they can. All students should feel free to jump in with a question.

Allow the students to ask questions, but push them to stick with a chronological, step-by-step approach. If students jump ahead in time or switch topics, remind them to stay disciplined and walk through the chronology. If the students miss a crucial factual detail, push them to think about what they should ask next to be sure they cover everything.

Once the students get to the point where the client could not understand the waiver form and stated that he wanted to talk to a lawyer, the re-do exercise can stop. Review the difference between the information obtained from the first, less disciplined approach and this one, and note the reasons for the difference.

Sample Fact Summary for Transactional Clinic

Tell the students to assume that they have already obtained the following facts (based on the role-play script at the end of this chapter): The client is part of a local community group that wants to make fresh and affordable food available in their local neighborhood. She wants your help in forming the group into a non-profit, so that it can be better positioned to buy or lease a building where it could operate a co-op grocery store. The group has had several meetings, and about 150 people have expressed some interest in this project.

Ask the students to start this segment of the role-play again and walk the client through the group's current focus and goals story step by step, making sure they obtain every single factual detail they can. All students should feel free to jump in with a question.

Allow the students to ask questions, but push them to stick with a step-by-step approach. If students jump ahead in time or switch topics, remind them to stay disciplined and walk through the chronology. If the students miss a crucial factual detail, push them to think about what they should ask next to be sure they cover everything.

Once the students get to the point where the client explains that she does not have any formal authority to represent the group, the re-do exercise can stop. Review the difference between the information obtained from the first, less disciplined approach and this one, and note the reasons for the difference.

Role-Play Segment III: Obtaining Sufficiently Detailed Contextual Facts

Issues to Plant in This Segment

1. **Reluctance to Share Details:** Use this segment of the role-play to give the students an opportunity to implement the strategies developed in the previous debriefing discussion with respect to this additional set of facts. Again, the client should be quite reticent when asked about the details of his situation. The client should confine all answers to the information specifically requested by students, volunteering very little else.
2. **Terminology Issues:** The client should use at least one term with which the students are unlikely to be familiar, but which are commonly used in the clinic's client population. This could include local slang for a type of illegal drug, a threat, a type of assault—anything that might come up in actual client interviews. The term should be used quite deliberately, so that the students cannot miss it. The goal here is to force them to either pretend they understand the term or ask the client to define it for them.
3. **Memory Issues:** The client should deliberately fail to remember some of the critical details the students ask about. Specific dates work well here, particularly because so many people actually do have trouble remembering dates.

Facts to Support This Segment

The scripts included at the end of this chapter lay out a complete set of facts for this role-play segment for use in domestic violence, criminal defense and juvenile delinquency, or transactional clinics. Clinicians who wish to develop their own facts should follow the guide below.

Developing Your Own Contextual Facts

For this segment of the role-play, you can develop a set of contextual background facts that are based on a typical client situation in your clinic. What is important to the exercise is that the facts include contextual information that might be important to a legal claim, such as:

- *Previous, related incidents between the parties or key players.* Each of these incidents should be set on a particular date, which students will have to work to determine. To assist in the learning process, each incident should be tied to at least one potential memory trigger for the client. For example, in our domestic violence script, one incident occurs just before Christmas, and the facts include the client asking her boyfriend for money to buy presents (this fact typically triggers students to help the client relate the date to holidays); another incident occurs five years previously, and the client is able to remember the date (in response to appropriate student probing) in terms of her children's ages at the time.
- *Scope of community support for the project or transaction.* Facts here could include the number of meetings held, number of attendees, identification of potential allies. To assist in the learning process, some aspect of these facts should involve a memory hurdle for the client. For example, in our transactional script, the client has trouble remembering the number of regular meeting attendees.
- *At least one term with which the students are unlikely to be familiar, but which are commonly used in the clinic's client population.* For example, in our criminal defense or juvenile delinquency example, the client says that a police officer "smooshed" him in the face.

Debriefing Prompts for This Segment

End this segment of the role-play at a natural breaking point. This will most likely occur when the students run out of questions. Explain that the students should now step out of role. The full class should participate in a debriefing discussion about this segment based on the prompts below.

Learning Goal: Learn how to obtain concrete, detailed facts from a client or potential witness.

Learning Goal: Understand the unconscious tendency to fill in gaps in factual knowledge with assumptions based on one's own experience.

Learning Goal: Understand the importance of active listening, and the variety of factors that can serve as facilitators and inhibitors of conversation.

Prompts

- What challenges arose to getting the necessary details here?
- What strategies were used, or could have been used, to get the details you need?
- Does the client have a clear understanding of what she is seeking?
- What strategies might you use to help the client begin to understand the complexity of the goal being sought? Of the legal process?

Learning Goal: Learn how to obtain concrete, detailed facts from a client or potential witness, particularly in response to memory issues.

Prompts

- Did anyone notice a moment when the client struggled to remember something?
- How do you decide whether that forgotten detail is important?
- What strategies did the student use to try to help the client remember?
- What are some additional strategies that might be effective in accomplishing this goal?

Learning Goal: Understand the impact of active listening, and the variety of factors that can serve as facilitators and inhibitors of conversation.

Learning Goal: Overcome concerns about bridging cultural and other differences between student and client.

Prompts

- Did anyone notice a moment when the students used a term the client didn't understand?
- A moment when the client used a term the students didn't understand?
- How did the students handle that situation?
- Why might these moments be difficult in the context of an actual client interview?
- What other strategic choices were available to them?
- What are the pros and cons of each strategy we have identified?

Suggest to the students that the group try out one or two of these strategies as a role-play with the client, so they can get a feel for how they might play out in practice.

Role-Play Segment IV: Obtaining Information about Possible Weaknesses in the Client's Legal Situation

Issues to Plant in This Segment

1. **Obtaining Necessary Information the Client is Reluctant to Share:** This segment can be an opportunity to help students develop strategies for working with a client to obtain information he is reluctant to reveal. When the students ask questions that go to the "planted" issue, the client should engage in behavior that indicates a reluctance to be forthcoming. This might include obvious nervousness, lack of eye contact, a brief, glib response, or saying something avoidant, such as, "Well, nothing else happened that's really important for you to know about." The point is to give the students some indication that there is something there they might need to know, and to push them to make a strategic choice about whether, when, and how to try to obtain it.

Facts to Support This Segment

The scripts included at the end of this chapter lay out a complete set of facts for this role-play segment for use in domestic violence, transactional, or criminal defense or juvenile delinquency clinics. Clinicians who wish to develop their own facts should follow the guide below.

**Developing
Your Own
Facts
Regarding
Potential
Weaknesses**

For this segment of the role-play, you can develop a set of facts regarding potential weaknesses in the client's legal situation based on a typical case in your program. What is important to the exercise is that the facts include some information the client is reluctant to reveal, such as:

- A history of illegal drug use
- Use of violence against another
- Potentially problematic parenting behavior
- A history of criminal activity
- Disciplinary problems in the employment or school context
- Undocumented immigration status
- Strong tensions between client group and community members
- For organizational clients, a lack of formal hierarchy or decision-making structure, or an insufficient support base, etc.

Debriefing Prompts for This Segment

At the end of this segment, stop the role-play and step out of role for another debriefing discussion based on the prompts below.

Learning Goal: Overcome any instinctive avoidance of or awkwardness or embarrassment about difficult, uncomfortable, or negative facts.

- What indicators led you to believe there might be some legal weaknesses in your client's case?
- What information did we get about the potential weaknesses here?

- Can anyone name, explicitly, the challenge inherent in probing for this kind of information? Why is it particularly difficult?
- What are the pros and cons of probing for this kind of information?
- What strategies did the students use to surmount this difficulty?
- What other strategies are available to you in your clinic work?

Role-Play Segment IV: Assessing the Client's Goals

Issues to Plant in This Segment

1. **Client May Not Be Interested or Solely Interested in Legal Relief:** Because law students tend to see all problems as legal, even solely legal, it can be useful to plant information into the role-play that helps them see how a client's goals may be more complex and multi-faceted. This should entail raising the possibility that the client may not be certain about pursuing legal relief at all; that she may not be interested in pursuing the full spectrum of legal relief potentially available to her; or that her primary concern(s) may be about non-legal issues.

The point here is to surface the issue of student assumptions regarding client goals and to ensure the students understand the need to ascertain the particular context and desires of each individual client, rather than making one-size-fits-all assumptions.

Facts to Support This Segment

The scripts included at the end of this chapter lay out a complete set of facts for this role-play segment, for use in domestic violence, transactional, or criminal defense or juvenile delinquency clinics. Clinicians who wish to develop their own facts should follow the guide below.

Developing Your Own Facts Regarding Client Goals

For this segment of the role-play, you can develop a set of facts regarding potential goals that are based on a typical client in your program. What is important to the exercise is that the facts include some information indicating that the client has goals in addition to or that may be in conflict with legal action.

In a domestic violence clinic. The client might express that her primary concern is finding stable, long-term housing for her children—an issue with which the students might be able to provide lay advocacy, but one that, in most jurisdictions, falls outside of the scope of what a protection order can provide. Or the client might want her abusive partner to stop hurting her, but not want to separate from him—in other words, she might wish to take advantage of only part of what the legal system can provide.

In a criminal defense or juvenile delinquency clinic. A client may wish to finally beat a drug habit through an intensive, in-patient treatment program that the court cannot or will not provide. Or the client may be facing a drunk driving charge in a case where the police did not perform a breathalyzer test. Although the students believe they can beat the charge, the client wants to avoid trial and find a solution that minimizes the likelihood that his employer will find out about the arrest.

In a transactional clinic. The client may believe that he can act on behalf of a larger group despite the lack of a formal leadership structure, or despite a lack of group consensus about goals.

C. Debriefing Prompts for This Segment

After the role-play, stop for a debriefing discussion. Debriefing prompts might include those listed below.

Learning Goal: Maintain client-centeredness, in part through ensuring adequate exploration of both legal and non-legal options.

Prompts

- How did the students try to ascertain the client's goals?
- What strategies did they use to help the client articulate her needs and interests?
- Did their description of the available legal relief allow the client room to articulate non-legal goals? How did they create this space?
- How might their description have unintentionally pressured the client to frame her goals as legal ones?
- How might their description have pressured her to aggressively pursue all possible forms of available legal relief, rather than only those in which she is truly interested?

Role-Play Segment V: Educating the Client about the Legal System and Likelihood of Success***Issues to Plant in This Segment***

1. **Client Does Not Understand Law and/or Legal System:** In this segment of the role-play, the client should indicate a basic failure to understand some relevant aspect of the law or the legal system. For example, the client may assume that the opposing party or complaining witness will not be present in court and that he will tell his story to the judge with no one else present. Or the client might assume that the judge will not learn anything about his prior criminal record, or prior parenting problems, etc. In a transactional setting, the client may assume that filing for non-profit status is a mere formality and can be done quickly, at the instigation of a few individuals.
2. **Client Asks Students to Evaluate the Likelihood of Success:** The client should explicitly ask the students how likely it is that she will succeed in obtaining her goals. The client should push the students to give her a percentage likelihood of success.

Facts to Support This Segment

The scripts included at the end of this chapter lay out a complete set of facts for this role-play segment, for use in domestic violence, transactional, or criminal defense and juvenile delinquency clinics. Clinicians who wish to develop their own facts should follow the guide below.

**Developing
Your Own Facts
Regarding
Client
Understanding
of the Legal
System and
the Likelihood
of Success**

For this segment of the role-play, you can develop a set of facts regarding the client's failure to understand the legal system based on a typical client in your program. What is important to the exercise is that the facts include:

- Information indicating that the client does not fully understand some basic aspect of the relevant legal system, such as:
 - The opposing party has the right to be present in court at the hearing.
 - The judge will remain ignorant of the client's criminal record, or prior parenting problems.
 - The client's undocumented status is irrelevant.
 - An individual can act on behalf of a group despite the lack of a formal hierarchy or decisional structure.
- The client believes the students can concretely evaluate the likelihood of success based on this interview. The client should simply push students for a percentage likelihood that he will prevail in court or be able to achieve the desired transactional goal.

Debriefing Prompts for This Segment

After the role-play, initiate a debriefing discussion based on the prompts below.

Learning Goal: Maintain client-centeredness, in part through ensuring adequate exploration of both legal and non-legal options.

Prompts

- Did the students effectively explain the applicable law in a way the client could understand?
 - What other approaches might have been effective?
 - What are the pros and cons of each approach?

- Did the client understand the process that would be involved in pursuing legal relief?
 - What other approaches might have been effective?
 - What are the pros and cons of each?
- Did the student overpromise, in terms of committing to a particular outcome in the legal matter?
 - What options do you have for responding to a client request for an immediate evaluation?
 - What are the pros and cons of each?

Wrap Up

This exercise surfaces some of the challenges that can arise in the client interviewing context. As you encountered these challenges, you began to develop some strategic responses that will be useful in your actual clinic client interviews.

Now that we have had an intensive opportunity to try out and debrief various aspects of a client interview, let's return to the concerns about client interviewing that you all raised at the outset of class.

Wrap-Up Exercise

Walk the students through each of the concerns they raised at the outset of class. Identify points where these concerns connect with their experience in the interviewing exercise, emphasizing strategies they developed about how to manage many of the listed challenges.

Connecting Back to Client Representation

The connections between a class on client interviewing and the field work performed by clinic students are readily apparent. Nonetheless, a clinician may wish to underscore these connections with one or more of the exercises described below.

End-of-Class Learning Prompts

Reserve 10 minutes at the end of class to pose the following learning prompts and encourage group discussion: Name at least one concrete way in which you will take the lessons you have learned in class today and apply them in your client representation, with respect to:

- Obtaining details;
- Avoiding the imposition of unconscious assumptions on gaps in a story;
- Prompting an interviewee's memory;
- Eliciting negative facts;
- Assessing a client's goals; and
- Educating a client about the legal system.

End-of-Class Critical Incident Questionnaire

Reserve 5 minutes at the end of class. Distribute index cards and ask each student to reflect on the question: Name one specific way you will use the lessons you have learned in this class to change or improve your clinic field work. Either simply collect and review the cards, or post the responses electronically (or otherwise distribute them) for the entire group.

Post-Class Reflection Memo

Assign the students to write a reflection memo after class which addresses the learning prompts listed above ("End-of-Class Learning Prompts"). Consider distributing the memos (or posting them electronically) so that the students can learn from each other.

Teaching Methods

The central exercise for this class is structured in stages designed to create diverse opportunities for learning which build upon each other. First, the full group brainstorms the possible topics for an initial client interview. This approach allows many students to participate in an active way, while others can ease themselves into the group process, choosing an initial path of quiet observation. Second, the students are placed in small groups to develop one segment of an interview outline. Students who feel more comfortable sharing their views in smaller groups will have a full chance to contribute here; any students who have not yet fully engaged will feel peer pressure to focus and participate. Finally, the full group observes each small group's performance, learning from their colleagues' examples as well as from the full group debriefing process.

In addition, because the entire class performs, observes, and critiques, this class creates a microcosm of the kind of learning we expect students to perform throughout their clinic fieldwork. They engage in the process of planning a strategic approach to a lawyering task, executing it, and then reflecting on it afterwards.

Finally, the class begins with a full group brainstorm about student interviewing anxieties, and ends by connecting the students' role-play experience to that list. This creates an opportunity both for students to find initial solutions based on the issues that surfaced in the role-play and to see that reflecting on performance can create new and useful learning.

The role-play also provides opportunities to dispel some of the routine misconceptions students bring to the interviewing process. Here, they are faced with a potential client who wants their help, but does not immediately come forward with the information they need or fails to appreciate what information is important. Students are forced to explore reasons for this phenomenon, and to consider the impact of their own role in the attorney-client interview dynamic. The exercise pushes students to see the way in which they superimpose their own assumptions onto another person's story, and the way in which this can undermine their ability to engage in effective lawyering. And by asking students to reflect on the way in which their specific language choices (as well as body language choices) might affect the interview, the exercise pushes students to rediscover the importance of the humanity they may have lost touch with during the initial hazing rituals of the traditional law school curriculum.

Opportunities for Transfer of Learning

The student learning that occurred in this class can be effectively reinforced and deepened if the clinician creates and names opportunities to apply this learning in other clinic settings. Where are the touch points, in the seminar syllabus and in case supervision, when such opportunities are likely to arise?

Seminar

Important lessons about the importance of effective client interviews may arise in several clinic seminar classes, including those focused on fact investigation, case theory, negotiation and direct and cross-examination. By helping students see these connections, a teacher can ensure that students are applying current understandings to new and different contexts, maximizing their clinic learning experience. This process can be

as simple as the teacher naming the connections as they arise organically, or reserving a few moments at the end of a relevant class or seminar exercise to pose questions such as:

- What connections can you draw between the exercise we just engaged in and what we learned about the interviewing process in our client interviewing role-play?
- In what ways are the fundamental lawyering lessons similar across these contexts?

Supervision

Students also will have opportunities to apply the learning from this class in their client representation. To facilitate transfer of learning across contexts, a clinician might hold in reserve a series of questions to pose as these issues arise. For example:

- Can you think of ways in which you used chronological probing to enhance your understanding of the client's (or the witnesses', or anyone else's) experience? Ways in which you used a broader, storytelling frame?
- Can you identify any ways in which your own unconscious assumptions filled the gaps in information here? How did this process affect your lawyering? How might you approach this same challenge differently in the future?

Sample Scripts for Client Interview Role-Play

Civil Clinic

The potential client has recently received a summons to landlord–tenant court. Her landlord, Avalon Management Company, is seeking to evict her from her home of 11 years. Yesterday, she found an eviction notice, giving her 30 days to leave her home, taped to her door. The stated ground for eviction is that the potential client “harbored a person who sold drugs on the premises, a breach of the lease.” She was referred to the clinic by a friend in the building, but she anything about the clinic, how it is structured, or who works there; nor does she know anything about the eviction process.

The Client's Story

The Notice to Quit

Basic Outline

I live in South City, in a two-bedroom apartment with my kids. I've lived there for 11 years, I know most of my neighbors, and I've never caused any trouble as a tenant. Yesterday, I found a piece of paper taped to my front door. It had the title, "Notice to Quit," and it said that I had to vacate my apartment in 30 days. There was a blank in the form for a reason, and what was filled in was that I had "harbored a person who sold drugs on the premises." I didn't understand it at all, but my friend Sylvia from downstairs got one of these about two weeks ago, taped right on her door. She's the one who told me to call you guys.

Additional Details: To be provided only if students explicitly ask:

- How many children do you have?

Three.

- What are their names and ages?
- Do you have the eviction notice?

No, I left it at home, but I can bring it to you.

- Did you bring the lease?

I forgot that, too, but I can bring it when I bring the eviction notice.

- Did the notice give a date for you to come to court?

Yes. It said two weeks from yesterday.

- You say that a friend got a notice, Have you seen other notices around the building?

Yes. I have seen quite a few.

- When did you start to see notices being posted?

About the same time that Avalon Management took over from my old landlord. That was about four months ago.

- About how many notices have you seen during that time?

About eight or nine, just on the few floors of the building I go to.

- How many apartments are there in the building?

Well, there are four apartments on each floor, and there are six floors, not counting the ground floor. So I think 24 total.

- Have any tenants been fighting the evictions?

Not that I know about. A few people I know have moved out. Sylvia just said it wasn't worth fighting about it. She said the new management was bad. She had complained about a broken toilet and it took them three weeks to send someone over to fix it. She was fed up.

Grounds for Eviction

Basic Outline

The reason for my new landlord trying to evict me may have something to do with my nephew, who got in trouble last year for selling drugs. He spends time at the apartment, but, as far as I know, he has never sold drugs there, or anywhere around the building. He is on probation, and he would go to jail if he got caught selling drugs. I think he's kind of gotten involved with a bad crowd. My sister, his mom, doesn't watch out for him all that much. He's supposed to be living with her, but he hates being over there. He has the same last name as I do and when his name was in the paper for getting arrested last year, people knew I was related to him.

Additional Details: To be provided only if students explicitly ask:

- Do you have any idea why your landlord would claim you were harboring someone who sold drugs on the premises?

I'm not sure.

- What is your nephew's name?
- How old is he?

He is 22 years old.

- When was he arrested?
- Do you know what the charge was?

It was possession of marijuana with intent to distribute.

- Was he sentenced?

He got a year's probation, but it was a felony. The judge said that if he stayed out of trouble he would be okay, but if he got caught doing anything wrong, he would go to jail for a year.

- When you say he spends time at your apartment, how often do you see him?

Off and on.

- Has your nephew gotten into any trouble when he has been at your apartment?

No.

- So why do you suppose the landlord chose this as a reason for trying to evict you?

Like I said, I think they want me out of there. I think they want all of us out of the building, so they'll just say whatever they need to say to get rid of us.

- How do you think the landlord found out about your nephew?

The guy from Avalon Management was at the building holiday party and probably overheard me talking about my nephew being in the paper because he was busted. I was pretty upset.

- Why do you think the landlord wants all of you out of the building?

Well, there's a new subway stop opening up a couple of blocks away, A lot of the buildings around here are being rehabbed, and I see lots of new people moving into them. I don't know what happened to the people who lived in around here before they decided to redo those buildings.

- Have you seen a change in the kind of tenants who are renting in the newly renovated buildings?

Yes, now they're full of young, single people around who dress like they work downtown. I think my landlord is just looking for ways to get us out so they can redo the building and rent it out for a lot more money.

Possible Weaknesses in Client's Case

Basic Outline

My nephew tells me that he has learned his lesson and that ever since he appeared before that judge, he has been on his best behavior. I believe him. He goes to the community college and is getting good grades. He had never been to my house before he was arrested, so I don't think he's ever sold drugs while he was there.

Additional Details: To be provided only if students explicitly ask:

- How often has your nephew been in your apartment since he was put on probation?

Well, pretty often, really.

- Would you say around once a month?

Well, more often than that, really. Pretty often.

- Every week?

Yeah.

- Every day?

Actually . . . I didn't want to say anything about this, because it's not what his probation allows, but he's been living with me off and on. His mother throws him out all the time, and he doesn't have any other place to go. I worry about him.

- Has anyone complained about him staying there?

No, no . . . He's a good boy and doesn't make trouble, really. He helps me with the kids. I think he's pretty much on the right track now.

- Does your landlord know that he stays with you?

I think they might. But the management company has never told me he had to leave.

- Are you always there when your nephew is at the apartment?

Well no. I work during the day, while my kids are in school.

- Does he ever bring friends to the apartment?

Yes, I think he does. I sometimes come home and smell smoke, and I've found cigarette butts on the outside windowsill, and my nephew doesn't smoke. I've asked him not to bring those friends around, because they were a part of his old life and might lead him down the wrong path.

- Have you ever smelled marijuana, or seen anything that makes you think there's been marijuana in the apartment?

Well, I guess so . . . But only a few times. Does that mean they'll be able to evict me?

- Is your nephew's name on the lease for your apartment?

No.

Client Goals and Failure to Understand Legal System

I want to stay in this apartment with my three children. I've been living there for 11 years. The public schools are getting better and my kids have lots of friends in the neighborhood. Besides, with the subway nearby now, it's easier for me to get to work and there are businesses moving into the neighborhood. And keeping stability for my kids is really important to me.

I would like to be able to help my nephew out, because he needs a place to stay, but I know he's an adult and I could talk with him about finding somewhere else to live. The thing is, I don't want to say or do anything that could end up sending my nephew to prison. If that's a risk, I don't know what I should do. Maybe I should look for somewhere else myself.

I also want to know whether this new landlord is trying to clear all of the tenants out of the building, and whether he can do that or not. If that's what's going on, I want to stop all of these evictions. Maybe if you tell a judge what's happening to everyone, he'll force the landlord he has to stop.

Domestic Violence Clinic

Petitioner (the potential client) has been dating the Respondent for the past 6 years. She has two children, a four year-old and a two year-old. Petitioner is unemployed. Respondent works in construction, but Petitioner does not know exactly where or for whom. Petitioner has been living with the Respondent and their children in your local jurisdiction. They rent an apartment together, with both names on the lease. She does not have a phone.

Petitioner is currently staying at a local shelter, where she and the children went after seeing a referral brochure at a local hospital. A friend referred Petitioner to the clinic, but she does not know anything about the clinic, how it is structured, or who works there; nor does she know anything about the protection order process.

The Client's Story: Incidents of Violence

Yesterday (Most Recent Incident)

Basic Outline

My boyfriend stayed home from work yesterday. I usually wake up early, when he does, and make breakfast for him and the kids. But I slept

in, because he had the day off and the children were still off from school for summer (or winter break, depending on the semester in which you are using this exercise).

My boyfriend woke me up and he was screaming at me about why I hadn't made breakfast. Then we were fussing. I went downstairs to make breakfast, and started cooking sausages in a pan on the stove. My boyfriend came downstairs. He started fussing with me again and then said "You can't do anything right" and threw a glass of water at the frying pan. Grease splattered onto my arm.

Additional Details: To be provided only if students explicitly ask:

- What is your boyfriend's name? The children's names?
- Is your boyfriend the father of your children?

No.

- How did your boyfriend wake you?

He took glass of cold water and threw it on me.

- What was he screaming at you when he woke you up?

He was screaming, "Where's my breakfast—you're no good" and he said "I'm going to have to teach you a lesson. Get down there and cook me breakfast."

- What do you believe your boyfriend means by "teach you a lesson?"

He means he's going to hurt me.

- Why do you think he means that he'll hurt you when he says he will "teach you a lesson"?

The first time he ever hit me he told me I was stupid and he would teach me a lesson. Since then, he has said that every time he has hit me.

- What do you mean when you say you were "fussing?"

We were arguing and I was asking him why he threw the water at me. He told me I'm just no good.

- How did you get out of bed?

My boyfriend grabbed me by the hair and pulled me out of bed. I fell onto my knees on the floor.

- Did your boyfriend do anything to you while you were on the floor?

He kicked me in the stomach.

- What was he wearing on his feet when he kicked you?
Timberland boots.
- Did you sustain any injuries?
A large bruise on my stomach.
- How large is the bruise?
About the size of an orange.
- Were there any witnesses?
The kids heard him screaming and were crouched at the bedroom door, which was open. They were crying and screaming, "Please stop." After he kicked me in the stomach he turned around and screamed at the kids to shut up or he'd make them shut up.
- What happened in the kitchen before the grease splattered on you?
When he left the bedroom he went out of the house, so I sat the kids down at the kitchen table. I cooked some sausages and he wasn't back yet, so I gave them to kids. He came into the kitchen and got mad at me for serving the kids first. I tried to ignore him and kept cooking. He said, "I'll make you pay attention to me," and got a glass of water.
- Did he say anything at this point?
He said, "I told you I wanted breakfast; now I'm going to have to teach you a lesson."
- Where were the children when the grease splattered?
At the kitchen table; they saw it happen. Some grease splattered on my two year-old daughter, who was in her high chair near me.
- Did anyone sustain any injuries?
I received second degree burns on my arm. I went to a local hospital for treatment. My daughter has a small burn on her upper arm. I put ice on it.
- Who took you to the hospital?
A neighbor. After the incident happened, my boyfriend yelled, "You all better get out of here, before I kill you all," and left the kitchen. I got the kids together with a few things and left. A neighbor had heard yelling and saw me come out of the house. He asked if I was ok, and he took me to the hospital and left me

there. I called the shelter where we're staying now from the hospital, because I saw a brochure in the emergency room with the phone number.

Previous History: Third Major Incident

Basic Outline

My boyfriend hadn't given me any money in a long time and I needed to get presents for the kids. I asked him for money to buy presents. He started fussing and gave me \$20. I asked for more, because we have two children and \$20 is not enough. He "stole" me in the face.

Additional Details: To be provided only if students explicitly ask:

- When did this happen?

I can't remember.

- Make the students work to figure out when this incident occurred. If the students offer useful prompts for remembering the time frame (such as age of children, year in school, where the client lived or worked at the time, weather and time of year, proximity to holidays, etc.):

A year ago, a few days before Christmas

- What do you mean by "stole"?

It means to punch, with a closed fist.

- Did your boyfriend say anything?

He said, "You're never satisfied—I'm going to have to teach you a lesson."

- Did you sustain any injuries?

A black eye.

- Were there any witnesses?

No.

- Where were the children when this happened?

Upstairs, watching television.

- Did you go to the hospital or call the police?

No.

- Did anyone see your black eye?

I went with the kids to a friend's house the next day and they were taking pictures because the kids were opening presents. The black eye was still noticeable and they took a few pictures of me and the kids.

Previous History: Second Major Incident

Basic Outline

My boyfriend got angry, said I looked fat, and punched me in the stomach.

Additional Details: To be provided only if students explicitly ask:

- When did this happen?

I don't remember.

- Again, make the students work to figure out when this incident occurred. If the students offer useful prompts for remembering the time frame:

It happened when I was about five months pregnant with my youngest child.

- Did your boyfriend say anything?

He said the baby was making me look fat and ugly, and that he would make me lose the baby.

- Exactly what did your boyfriend do?

He punched me in my stomach. I curled up to protect myself and he kept punching my arms and back and sides.

- Did you go to the hospital?

Yes. I was worried about the baby. But the baby was ok. I didn't tell anyone what had happened. I told them I'd fallen down.

Previous History: First Major Incident/Possible Weakness in Client's Case

Basic Outline

My boyfriend and I were sitting around with two of his friends, drinking beer. My boyfriend started fussing with me; then he got really mad and slashed my arm with a razor blade.

Additional Details: To be provided only if students explicitly ask:

- Did you receive medical treatment?
Ten stitches. I have a permanent scar.
- How did you get to the hospital?
One of my boyfriend's friends took me to hospital and left me there.
- What was your boyfriend angry about?
I'm not really sure . . . do I have to talk about that? (The idea here is that the first response to this inquiry should involve avoiding answering. The client should appear uncomfortable.)
- If the students push for an answer:
I was drinking and doing cocaine with everyone else who was there. We were cutting lines on the coffee table with a razor blade. When I snorted the last line, my boyfriend got really mad and that's when he grabbed the razor and slashed my arm.

Previous History: Routine Incidents

Basic Outline

On a pretty regular basis, my boyfriend will argue with me and say "I'm going to have to teach you a lesson." When he says this I know he might hit me. Also, sometimes he threatens to "smoosh" me in the face.

Additional Details: To be provided only if students explicitly ask:

- What do you mean by "smoosh" you in the face?
I mean he will take his hand, with his palm open, and push it directly into my face.
- How frequently do these kinds of things happen?
About once a week since our second child was born.

Client Goals and Failure to Understand Legal System

I want to be safe and stop my boyfriend from hurting me or my children again. I am not at all certain, however, that I wish to end this relationship, even in the short term. I have heard from a friend that I can go

to court and get an order of protection without having to let my boyfriend know anything about it.

Criminal Defense and Juvenile Delinquency Clinics

The client has lived in the local jurisdiction all of his life. He lives with his parents and is unemployed. He has been told that the people interviewing him come from a law school clinic, but he does not know anything about the clinic, how it is structured, or who works there; nor is he particularly familiar with the criminal justice system process.

The Client's Story: Alleged Criminal Offense

Yesterday

Basic Outline

Last night, I was hanging out with one of my friends. He was talking about robbing this house across town. He knows a guy who does yard work there, and the guy said that there was a whole bunch of really expensive jewelry right there in a drawer in the front hallway. He kept bringing it up, trying to convince me to go out there with him. I felt pretty pressured to say yes, and finally I agreed to help him. We drove over there and the house was dark, no one was home. My friend busted out the lock on the front door and we went in. I stayed at the door, to keep watch in case the people who live there came home. My friend found the jewelry and stuffed it in a bag. We drove back to his place and hung out for a while. Then he gave me the bag and told me to take it home. He said he'd come pick it up the next day.

At about 3:00 in the morning, I started walking home. I was going north on 15th Street, just south of R Street. I heard someone call out for me to stop, and I did, right away. I turned around and saw a cop walking toward me. The cop asked for my name and address, and I told him. Then he pushed me up against the wall, and patted me down. He reached into my pocket, pulled out the bag and looked inside it. He arrested me and took me down to the station. They asked me to sign a form about waiving my rights, and I did. Then they asked me what happened. Eventually, I just told them everything.

Additional Details: To be provided only if students explicitly ask:

- What is your friend's name? What is the address of the house where you found the jewelry?

- Where was the bag when the police officer stopped you?
In the left inside pocket of my jacket.
- Why did the police officer stop you on the street?
I don't know.
- Did you cooperate with the officer?
Yes.
- Why do you think he patted you down?
He told me there was an alert out for someone with my description, and asked me if I'd been to that house. I said no, that I was just walking home. He said he didn't believe me, and pushed me up against the wall and frisked me.
- What happened when you got to the police station?
They put me in a room and started to question me.
- How long did the police question you?
For about an hour and a half.
- Where were you while you were being questioned?
In a small room in the police station.
- What was the room like?
It was really hot and stuffy. I asked for water and they gave me some, but they wouldn't let me take a break at all.
- Who questioned you?
There were two cops there, but it was mostly Officer Jones who did the talking.
- What did you tell the officers when they questioned you about the bag?
I told them that I was just walking home from a friend's house. I saw a bag on the sidewalk. I thought it might have something valuable in it. I picked it up and put it into the left inside pocket of my jacket.
- What was their response?
They said that was obviously baloney. They said they didn't believe me and that no one would either.
- What else did the police say to you or ask you?

At some point, they told me I couldn't go home until I admitted that I'd stolen the jewelry.

- What did you say when they told you that?

Well, at some point I just got so tired—it was around 4:00 or 5:00 in the morning, and I just wanted to go home—so I said, “Ok, I admit it. I was there with my friend who wanted to steal the jewelry. I was just the lookout. My friend gave me the bag of jewelry and told me to stash it in my house until the next day.”

- Before the police questioned you, did they read you your rights, tell you that you could talk to a lawyer?

Yes. They gave me a form to fill out—something about waiving my rights. I signed it.

- Did you sign it before you told them what happened?

Yes.

- Did you understand the form when you signed it?

No.

- Why not?

I was really upset and scared. And I'm not a good reader—I kept being held back in school and finally quit after 6th grade.

- Did you say anything to the officers about the form?

I remember saying, “I need a lawyer,” but no one seemed to pay any attention. I was mumbling because I was scared, but I think they probably heard me.

Previous History

Basic Outline

A while back, I was driving on an icy road and got stopped by the police. One of the cops said that they might not have anything on me now, but that if they ever caught me doing anything wrong, I'd be sorry. While he was saying this, he smooshed me in the face. Then they let me drive away.

Additional Details: To be provided only if students explicitly ask:

- Why do you think the police pulled you over?

There was ice on the street, and my car skidded a little out of control.

- Did you hit anything or anyone?
No.
- What do you mean by “smooshed” you in the face?
He held up his hand, palm open, and pushed it into my face.
- How did the officers treat you?
The one who threatened my seemed kind of crazy, out of control. He scared me.
- How did this make you feel?
I was scared. When I got arrested last night, I kept thinking about this, about how the police were going to make sure I got in as much trouble as possible, that there would be no way out for me.
- Make the students work to figure out when this incident occurred. If the students offer useful prompts for remembering the time frame (such as age, year in school, where the client lived or worked at the time, weather and time of year, etc.):
A year ago, in the coldest part of the winter, probably February.

Possible Weakness in Client’s Case

Basic Outline

I’ve done a couple of jobs like this with this friend before. I wish I hadn’t done it this time. I shouldn’t have let him talk me into it.

Additional Details: To be provided only if students explicitly ask:

- Why did you agree to participate in this robbery with your friend Joe?
I’m not really sure . . . do I have to talk about that? (The idea here is that the first response to this inquiry should involve avoiding answering. The client should appear uncomfortable).
- If the students push for an answer:
For the past several years, I’ve been smoking dope pretty regularly. I don’t have a job, and it’s hard to support my habit. Sometimes I need to do jobs like this to get some quick cash.

Client Goals and Failure to Understand Legal System

I just want to make this go away. I don't want my mom to know about this arrest; she's fed up with me getting in trouble, and she's my main source of financial support. I know she'll cut me off if she finds out. A friend of mine said that maybe I can sign an agreement where all of this is totally confidential. I'll agree to anything, I just want to make sure no one knows about this arrest.

Transactional Clinic

The potential client is part of a group of residents in a local neighborhood where no large grocery stores are located. The food available for purchase is not fresh, generally unhealthy, and overpriced. She wants to form a non-profit organization, with the goal of creating a local food co-op. She has lived in this neighborhood all of her life. She was referred to the clinic by a lawyer she's met through her organizing work, but she does not know anything about the clinic, how it is structured, or who works there; nor is she at all familiar with the relevant legal process for forming a non-profit.

The Project: Clarifying the Client Group's Goal and Current Structure:

Basic Outline

I'm here representing a group of people in the Sousa neighborhood, not far from here. I've lived in the area all my life, and so have lots of my neighbors. The neighborhood has a sizable number of recent immigrants, as well as a few new families with children, who've moved in because the housing is more affordable than in other areas close by. Unemployment is high. We have a weak public transportation system and the nearest big grocery store is miles away. We end up having to rely on small corner grocery stores and the local McDonald's and Popeye's for food. A group of us want to work together to file for non-profit status, so that we can try to create a food co-op. We think this would be a great way to bring better food into the neighborhood. I heard about this clinic and thought maybe you could help us.

Additional details to be offered only if the student explicitly asks:

- Who is the group you're representing?

It's a bunch of people in the neighborhood who are all interested in making healthy food more available.

- What is your goal here—what do you want us to help you with?
We want to open a grocery store in the neighborhood. There's a building in the neighborhood that's in foreclosure, and we want to figure out how to buy it and use it to house the grocery store.
- Why do you want to file for non-profit status?
We were told by someone's lawyer friend that the best way to do that is to go through the legal process of forming a non-profit organization.
- Who is in your group?
We all live in low income housing in the neighborhood. We've worked together to put pressure on the schools and the police to improve the services they provide, and we've been pretty effective. Now we're starting to focus on healthy food, and on making our organization more formal.
- How would you like this food co-op to work?
We thought that we could get together with local farmers and have them use the co-op as a way to sell their food.
- Do you have any connections with local farmers?
Yes. There is a large farm a few miles outside of town, and they contacted us about making this work. They're really committed to bringing healthy food to neighborhoods that don't have access to it.
- How did you decide on a food co-op?
One of our members read a newspaper article about a group doing something like this in California, and it seemed like something that would be worth a try here, too.
- What have you done together, as a group? Have you held meetings, for example?
Yes, we've had several meetings.
- Has the group discussed the idea of forming a non-profit?
Well, informally, but we haven't had a focused meeting about it.
- Tell me more about the group.
We're a membership organization. We have about 150 members, all people who live in the neighborhood.
- Do you have regular meetings?

Pretty much.

- Have you done anything to organize the group for this project?

No. That's why we're here.

- Tell me more about your group. Do you have an organizational structure?

I don't know what you mean.

- Do you have a president or other leadership structure?

I'm pretty much functioning that way right now. But we haven't had any formal elections or anything like that.

- So are you the leader of this group?

Not exactly . . . We have a pretty flat organizational structure, and prefer to do things by consensus. I have a lot of free time right now, so the group thought I should be the one to come talk to you.

- Do you have by-laws that can help you make decisions as a group?

We've just been operating by consensus so far. We figure that's been working for us, and so we'll continue to work things out that way.

- How do you resolve conflicts? Who gets to decide when a decision is necessary?

Well, I haven't really given that much thought. I guess that's something we need to work out. Can you help us with that?

Context: Scope of Support for the Project/Transaction Internally, within the Client Group, and Externally, within the Community:

Basic Outline

The group has been working together, on a somewhat informal basis, for around four years. We've worked with the local schools to establish an ESOL program for the growing number of immigrant children. And we've worked with the police to help develop better community policing practices. So the community sees us as a positive presence. Now we're really interested in providing our neighborhood with healthy food. We've had a number of meetings, and most people in the neighborhood seem pretty "cised" about the idea.

Additional Details to be offered only if the student explicitly asks:

- What do you mean when you say that people are “cised” about this project?

You know, excited, psyched about the idea.

- About how many community members have come to meetings and seem interested in this project?

I really can't remember.

Make the students work to figure out how many regular, participating members are in the group. If the students offer useful prompts for remembering the number (such as asking if it's more than 10, less than 50, how many were at the last two meetings):

Maybe about 25 of us have been talking pretty regularly.

- Who do you expect to be your allies in this project?

I think everyone in the neighborhood is interested in getting some good food into the area. And there's a community organization we've talked to that does this nationally. It's called Good Food America.

- Have you raised any money to support this project?

Most of our members are unemployed, but we have all committed to work at the grocery store for free in exchange for food. And there is one person who is willing to donate some money, but only if he can deduct it from his taxes. Being a non-profit would help with that, right?

Possible Weakness in Client Project

Basic Outline

There's a bunch of people in the community who say that we could never make this work. They think other issues facing the neighborhood are more pressing and important. But I don't agree with them.

Additional Details: To be provided only if students explicitly ask:

- Are there people in the community, or in your group, who oppose this project?

There are lots of people who say that we could never make this work. They don't want to invest time and resources into this

idea—they think other issues facing the neighborhood are more pressing and important.

- What is the basis for the opposition to the project?

Well, it's complicated . . . do I have to talk about that? (The idea here is that the first response to this inquiry should involve avoiding answering. The client should appear uncomfortable).

- If the students push for an answer:

The thing is, there's some bad blood between me and some of my neighbors.

- Why is that? What happened?

Well, a while back my oldest son was selling drugs on the street. I got involved—only once—in a situation that turned out badly. Other people's kids went to jail because of it. So now there are some people who just won't support anything I'm a part of.

Client Goals and Failure to Understand Legal System

I really want to make this non-profit thing happen in time for us to have a real shot at buying this building that's in foreclosure and would be perfect for us. I'll meet with you and give you any information you need. I'm sure we'll be able to bring the others along afterward; I'm sure we can find ways to convince them to support this project. People like me, and tend to listen to what I have to say. I just don't think we can wait to get everyone on board, or convince them to elect me as the group's president, before we go ahead with this.