

# **Effective Representation in TPR Cases: The Client Interview**

Wisconsin State Public  
Defender's Office  
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# A Balance of Art & Science

The case is about the **CLIENT**

Not:

Lawyer

Judge

Witnesses

Prosecuting Attorney

Family members

# A Balance of Art & Science

- **Client-Centered**
- Flexible yet directed and guided—be prepared to adapt to the client's style of communication
- No one place or form—courthouse; phone; office
- **ONGOING**

# What the Interviews should accomplish

## - Goals

Build Trust (*Confidence and Rapport*)

Gather Relevant Information from Client

Communicate Relevant information to Client

# How to Build Trust with *Your* Client

- Explain your Role and Obligations
  - Discuss Attorney Client Privilege and Confidentiality
- LISTEN, LISTEN , LISTEN
  - Eye contact; be actively engaged, looping
- Understand Client's perspective
  - Their background and history with CJS will shape their initial approach to you.
  - But demonstrate good boundaries and be confident—no doormats!
- Show Concern, Empathy, Respect
  - We ask our client's to share intimate and perhaps embarrassing details of their lives.

# Trust, cont'd...

- Answer his/her Questions
  - The client needs enough information to make the most informed decisions about their case.
  - If you do not know an answer, commit to doing research and consult with others and let them know that this is what you are going to do.
- Tell the Client what you will do/have done—this builds trust and confidence
- Timely response to Client
  - If it takes you time to return calls, let the client know this
  - SCR 20 preamble—”competent, prompt, and diligent”; maintain communication with the client...re: representation.



## How to Get Relevant information



What is relevant information?



## How to Get Relevant information



ALL information is relevant to client

## Relevant information cont...

- Get Client's STORY Early
- Use a client interview form
- Use this information to develop Trial Strategy
  - A thorough client interview is the foundation and the preparation for most of the case from negotiation to motion prep, trial prep, investigation, trial and disposition.

## Relevant information cont'd...

- Ask About Client's Goals
  - And write it down!
- Obtain Social History of Client
  - And write it down!
  - Social history includes: education; family; employment; military; mental health; AODA; physical/sexual abuse; medical; medications; treatment history; hobbies; religion; childhood; friends...the list goes on!
- Mediation potential
  - Is this in your jurisdiction yet?

# What to Communicate to Client

- The Charge(s)/The Petition—use the Jury Instructions to assist you, and give the client a copy.
- Case Process—the State’s burden; potential witnesses
- Legal Options—judge vs. jury trial; witnesses; client testify
- That you do not *Judge, you Defend.*

# Other Important Issues

- Make sure the client has received all relevant court petitions/reports and review with client. Review in person
  - Again, the importance of a thorough client interview includes making sure the client has read and understands the case against them. Do not assume the client has read anything.
- Client's Criminal Record
  - **Client interview form!**
  - **No surprises!**
- Copy of Jury instructions

## Other issues cont'd.....

- Competency issues—be aware of them and your obligation as counsel
- Client perspective
  - Past experience with the CJS
  - It is important to let the Client know that you are a *different* lawyer.

# Importance of knowing your audience

- Inform client about Judge and prosecutor s/he has as well as what the jury pool may look like...
  - Example of TPR case
- Prepare the client for court and what to expect.
  - Little routines/quirks about court or the process that lawyers just get used to, clients may not even know exist.

## **It's a balance between Art and Science.**

- Be flexible
- Don't be afraid to ask a question of your client; encourage your client not to be afraid to ask YOU a question!
- Don't assume that the client will just know what the case is about and the likely result.
- Listen, Listen, Listen

# Discussion



- Roadblocks to client communication?
- Concerns about client communication?



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Questions?