

The Client Interview

Handling a Misdemeanor From A – Z



A Balance of Art & Science

- No one place or form (Coffee Shop, Library, 3rd floor Crt house, etc....)
- Hallway of the Courthouse is NOT Ideal!!!
- Client-Centered
- Need to be flexible and yet, able to be directed and guide it
- Unspoken cues, body-language



What the Interview 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

■ LISTEN, LISTEN, LISTEN.

- Eye contact, Quiet spot in a circus???
- Be actively engaged, looping

■ Understand client's perspective

- Their background and history with the CJS
- Life History

■ Show Concern, Empathy

- We ask our Client's to reflect on pretty embarrassing times in their lives.
- To explain intimate details

■ Explain your Role and Obligations

- **Client Confidentiality** set up an appropriate way to communicate
- Advocate and educator.



How to Build Trust Continued...

- Answer their Questions, (what are they really asking?)
 - Client may want to know what is the typical punishment for their case, ie, CCW 3-6 months, DV cases, 18 months probation with a review date, Prost. DPA or NOT
 - Job as educator, so that the client makes the most informed decisions about their case
- Tell the Client what you will do/have done
 - DOT Printout as to what Client needs to do to get DL
 - UW Retail Theft Program
 - Impact
 - Benedict Center
 - Copy of their Police reports, Complaint,
 - Research on motion issues.
- Timely response to Client
 - **BE HONEST!!!!!!** If it takes you 2-3 days, then let them know



How to Get Relevant information

What is Relevant information???

- For the purposes of the required Elements of the Offense
- For Possible Motions and other Suppression issues
- Client's record, Arrests, Muni tixs-> You do not want to find out that your client has been given 15 RT Tix and they have finally charged them now. Expect a bad offer and difficult negotiations

Get Client's STORY Early.

- What Happened?
- Who Saw it, Any Witnesses (think: investigation)
- Where did it occur? Video Surveillance?
- Information about the Accuser and Witnesses: Bias, Motive to Falsify, Reputation, Record, alcohol or drug use, mental illness, etc.... (Again, Think: investigation)



Relevant information cont...

■ Ask About Client's Goals????

- Client may have an obligation, like surgery or completion of treatment and want to resolve case earlier or later.
- Client might not be able to plea at all, due to employment, like CAN or Nurse????
- Client may want their day of "say" or the judge to hear a specific piece of information.

■ Obtain Social History of Client.

- Age, education, family, marriage, friends, employment history, mental health history, alcohol and drug abuse, physical/emotional and sexual abuse, medical problems, medications, treatment history, activities, religion...
- Follow up, verify with treatment provider, employer etc.....
- Example of my mistake.....



What to Communicate to Client

■ The Charge(s)

- Elements of the Offense. (PRINT OUT THE WIS JI)
- State's Burden, Necessary complaining witnesses
- What is Alleged (Don't assume that the client remembers what's in the complaint)
- Penalties (enhancers, reporting requirements, Financial Aid on drug cases, etc..)

■ Case Process

- Checking in with the deputies when first arrive at crt.
- Let the client know if you may be delayed or late, to please exercise patience. Thank them in advance. It makes a difference.
- Explain Court hearings, Motions, FPT, JT
- Plea does not mean going to sentencing right away
- Next Meeting with Client, if one is needed.



Communicate to Client Cont...

Legal Options

- I try to let client know that they are the decision maker and have a lot of options.
- Inform them of the State's offer to resolve
- Potential DPA Candidate?????
- Trial options, Jury vs. Judge???
- Further and future negotiations, potential Comm. Service, Treatment etc...

That you do not *Judge, you Defend.*

- Example: A younger male lawyer in my office and his approach on Female Prostitution cases. *Embrace the awkward. Because it should NOT be awkward for you and your client. This real life.*
- Financial rather than sexual.
- Craig's list cases.



Other Important Issues!!!!

- Opportunity to listen to the CD recordings with you client.
 - If Client is in custody, you will need to contact the facility and find out the protocol so that your client can review their discovery.
 - For Purposes of Statement Suppression, you need to go through the recorded interview with client and ask them questions for your motion and argument.
- Exchange copy of police reports and complaint with client.
 - Client's in custody, may not want a copy of their police records sent to them, in fear of snitches, or just lack of privacy
 - Also, Client's may say that their mailing address is not stable and that they prefer to pick it up at the meeting.
 - Address might be bogus
- Client's Criminal Record.
 - Some client's are not aware of their records. This helps you to have them understand where the ADA is coming from and what the Judge will hear.
- Copy of Jury instructions – every count, every case



Other issues cont.....

■ Conflicts????

- When just starting out you will probably not have this come up a lot, but it only takes two client's to have a possible conflict.
- Be aware of this and if you hear a name that sounds familiar, let the client know right away and figure it out.
- Keep a system of recording of who you have represented

■ Competency issues

- You have an ethical obligation if you believe that the client cannot assist you in your representation or lacks the substantial capacity to understand the proceedings.
- Wis. Stat. 971.13
- Then educate your self on 971.14 thru 971.16
- Any Chapter 51 or 55 history



Keep'n it Real

Past experience with the CJS

-  Some client's I have found that they have had poor experiences in the past with their defense lawyers.
-  I DO address it and ask them to explain.
-  Most all of the complaints stem from feeling 1) not being heard and 2) told what to do, pressured.
-  Hmmmmmmm! LISTEN, LISTEN, LISTEN!!!
-  Best way to avoid a strained attorney/client relationship

 It is Important to let the Client know that you are a *different* lawyer.



The Importance of Other Jurisdictions

- Your client may have Juvenile Adjudication and Children's Court Obligations. NEED to ask
- Important for you to know not to double book the client in downtown crt when they are to be @ Children's crt.
- Important to have releases ready and with you so that the client can sign them so that you can contact their Wrap-around worker, Juvie lawyer/social workers.
- If client has federal probations, or a fed case pending, need to get the Federal lawyer's name and number if possible.



Importance of knowing your audience!!!

- Inform client about the Judge s/he has
 - Where as one court starts at 8:15 and does not allow for much hallway lawyering, others may not even take the bench until 10 am
 - Best Rule, you be on time
 - Off the record scheduling
 - Some Judge's only want "yes, no, guilty, or not guilty" said explain this to client before hand.
 - Etc.....

- This is important, because the little pica dillies 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
- Don't assume that the client will just know what this case is about and the likely result.
- Listen, Listen, Listen!!!!



THE END



Questions?

