ARCHIVED: This PDF has been archived because it contains historical information and data that may not be currently applicable.
For more information, and any accessibility concerns, please contact Dana Eddy at dana.f.eddy@wv.gov.

WHAT YOUR MITIGATION SPECIALIST CAN DO FOR YOU

Give you a social history investigation Conduct a detailed investigation of each stage of the client's life, including the social, family and medical history in order to uncover possible mitigating factors, to identify possible witnesses to support mitigation and assist the defense team in preparing the case.

Prepare a sentencing or mitigation report This will give the judicial officer an alternative to what the prosecution may be asking the judge to do. It will explain how the important factors in the client's life up to this point have contributed to the offense behavior. It will address the defendant's potential treatment or other needs and suggest ways in which these might be incorporated into a sentence that solves the problem which the crime represents for both society and the defendant. In contrast to a presentence investigation report, it will be client-based, not crime-based. It will present a complete human being to the court.

Illustrate the defendant's view of things By learning the client's own view of his or her life, how the client sees the world and how the client wishes to be portrayed to the court, the specialist can tell the complete story to the court.

Keep an inventory of important information Such as an "Expert's List" of professional consultants who can examine clients for possible medical, psychological, substance use, intelligence, cultural or other factors which may be mitigating. Keep a file of successful sentencing motions.

Make referrals Pre-screen the defendant to identify mental health, substance abuse or other factors which may require expert evaluation. Recommend appropriate experts. Make referrals and set up appointments for the client to meet the expert. Submit background information to the expert. Be knowledgeable about referral resources and community-based programs for the client, such as drug or alcohol treatment, mental health treatment, financial assistance, housing, or child care.

Brainstorm cases As part of the defense team, the mitigation specialist can present ideas from the perspective of a person who is not a lawyer, but who understands what the lawyers need to do and want to do for the client.

Be a liaison Act as a liaison between the lawyer and the defendant. The mitigation specialist may make appointments with consultants. He or she should explain to the client what the client should expect when meeting with the consultants, or when carrying out treatment or other plans while the case is pending. Act as a liaison between the client and the probation office, even attending pre-sentence investigation interviews. Act as a liaison between the client and Pretrial Services. Act as a liaison between the lawyer and the defendant's family. Act as a liaison between the defendant and the defendant's family. Contact victims, when possible. The specialist will be sensitive to the victim's concerns.

ARCHIVED: This PDF has been archived because it contains historical information and data that may not be currently applicable.
For more information, and any accessibility concerns, please contact Dana Eddy at dana.f.eddy@wv.gov.

ARCHIVED: This PDF has been archived because it contains historical information and data that may not be currently applicable.
For more information, and any accessibility concerns, please contact Dana Eddy at dana.f.eddy@wv.gov.

WHAT YOU CAN DO FOR YOUR MITIGATION SPECIALIST

Get him or her into the case as soon as possible In order to do her or his best work, a mitigation specialist must have enough time to complete all of the interviews, do the research, gather the records, set up expert assessments and write the report. The interviews of the defendant can begin at the moment the case is opened in your office.

Some of the best work is done in getting a reduced charge, or even deferred prosecution. Good mitigating facts, well presented, can go a long way toward convincing a prosecutor (or his or her supervisor) that your proposal should be considered.

Use the mitigation specialist for rules to show cause why probation or supervised release should not be revoked. The same kind of information that works to reduce a sentence also works to reduce other punishments.

Keep the mitigation specialist informed The mitigation specialist acts, in many ways, as a consultant. Make them a full partner in the defense team. While the specialist will develop her or his own theory of the mitigation of the case, knowing the theory of the defense and being a part of its construction will keep them from going in a direction that may not be productive. Likewise, having the whole defense team brainstorm the theory of mitigation will be helpful to the advocate. Keep roles and responsibilities clear, understand what is expected of each team member.

Even if you are not using the mitigation specialist on a particular case, let him or her know when you have an expert or research or a source that has proved useful so that it can be added to the advocate's information base.

Prepare with the specialist for testimony The mitigation specialist is often called upon to testify about the information or the conclusions in the sentencing or mitigation report. Practice direct and cross examinations when possible. Be sure to help them anticipate what the prosecutor will ask. [Usually the killer question is along the line of: "So everyone with this background commits this offense?"]

Provide the mitigation specialist with resources In order to be most effective, the specialist must have training in a wide range of skills: interviewing, report writing, diagnosis of psychiatric disorders, diagnosis of substance abuse patterns, knowledge of various possible treatment resources, knowledge of family systems, and much more.

The National Alliance of Sentencing Advocates and Mitigation Specialists, a section of the National Legal Aid and Defender Association, is the only professional organization for the industry. Skill-building workshops and the annual conference can provide valuable training. The organization also has a mentoring program and a discussion group listserve. The web page is at http://www.nlada.org/Defender/Defender_NASAMS

James Tibensky 312-621-8340 James_Tibensky@fd.org

ARCHIVED: This PDF has been archived because it contains historical information and data that may not be currently applicable.
For more information, and any accessibility concerns, please contact Dana Eddy at dana.f.eddy@wv.gov.