



New York State Office of  
Indigent Legal Services

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# Interviewing for Mitigation

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PRACTICAL GUIDANCE ON TRAUMA-INFORMED INTERVIEWING  
FOR MITIGATION SPECIALISTS & DEFENSE TEAMS





New York State Office of  
Indigent Legal Services

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March 2024

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## Introduction

Every facet of a client's life offers opportunity for mitigation and defense advocacy. A mitigation specialist working on the defense team can be an integral partner for engaging and interviewing defense clients and their loved ones. Defense attorneys who deeply understand their clients' lived experiences can robustly advocate at many stages of their cases. Mitigation, defined here as the framing of the personal strengths and adversities of a client's life to achieve a beneficial outcome, can enhance defense advocacy during:

- Arraignments and bail applications
- Plea negotiations
- Pre-trial motion practice
- Sentencing
- Direct appeals
- Post-conviction practice

In some instances, mitigating information can also inform a legal defense to the charged crime. Mitigating evidence should be presented in every case, even where there is a negotiated plea. Creating a strong mitigation record can help frame trial counsel's narrative of the case, which often leads to better outcomes at the trial level and greatly enhance future attorneys' ability to advocate for the client on direct appeal and in any post-conviction proceedings.

It is important to begin mitigation efforts early on. This means interviewing your client and their loved ones as early as possible. This guide supports trauma-informed interviewing skills for gathering persuasive, meaningful mitigation evidence.

## A Trauma-Informed Approach

The quality of your mitigation advocacy is limited only by the bounds of your creativity and how well you know your client. This guide supports strong client-centered defense practice that recognizes the value of the defense team-client relationship.

Interviewing clients, family, and community members about a client's personal circumstances and life history is the most important foundation for defense advocacy and building a strong mitigation strategy. It is also the most sensitive task. A thorough and impactful life history assessment will almost always require your client to share difficult experiences and expose vulnerabilities that are otherwise well-protected. The correlation between trauma exposure and justice involvement is strong, and interviewers are most effective and ethical when they adhere to these trauma-informed principles:<sup>i</sup>

4R's of the Trauma-Informed Approach	Principles of Trauma-Informed Practice
Realize the impact and extent of trauma	Safety: Ensure physical and emotional safety
Recognize the signs and symptoms	Choice: Make sure the individual has choice and control
Respond by fully integrating knowledge	Collaboration: Make decisions with the individual and share power
Resist re-traumatization	Trustworthiness: Provide clarity, consistency, and interpersonal boundaries
	Empowerment: Provide atmosphere that allows individual to feel validated and affirmed at each contact

Experiencing ongoing trauma trains the brain to be highly attuned to threat and dampens the reflex to assess for safety. A trauma-informed practitioner understands that heightened responses to both real and perceived threats are symptoms of trauma exposure. This guide outlines practices that can help to minimize re-traumatization and the associated symptom activation.

Threat Response <sup>ii</sup>	Associated behaviors
Fight	Confront with aggression
Flight	Escape, run away
Freeze	Shut down, dissociate
Fool	Create distraction, pass off danger
Fawn	Ingratiate oneself to the aggressor

## ABA Capital Mitigation Guidelines & Considerations for Non-capital Mitigation Practice

Guidelines for Capital Defense Practice, published by the American Bar Association (ABA), offer comprehensive guidance for defense practice in death penalty cases. The Supplementary Guidelines for the Mitigation Function of Defense Teams in Death Penalty Cases (“Supplementary Guidelines”) offer direction for the specific role and responsibilities of mitigation specialists.<sup>iii</sup> While translation of the Supplementary Guidelines to non-capital sentencing mitigation practice often should consider the resources, including time and funding, available to non-capital mitigation work, the Supplementary Guidelines can effectively inform mitigation investigation in non-capital cases. The following chart outlines the ABA Supplementary Guidelines that pertain to mitigation interviewing.<sup>iii</sup>

Guideline reference & title	Guideline description as applicable to mitigation specialists and interviewing
5.1 C QUALIFICATIONS OF THE DEFENSE TEAM	Mitigation specialists must be able to identify, locate, and interview relevant persons in a culturally competent manner that produces confidential, relevant, and reliable information.
	They must be able to establish rapport with witnesses, the client, the client's family, and significant others that will be sufficient to overcome barriers those individuals may have against the disclosure of sensitive information.
	They must be skilled interviewers who can recognize and elicit information about mental health signs and symptoms, both prodromal (emerging) and acute, that may manifest over the client's lifetime.
	They must have the ability to advise counsel on appropriate mental health and other expert assistance.
10.11 C THE DEFENSE CASE: REQUISITE MITIGATION FUNCTIONS OF THE DEFENSE TEAM	Team members must conduct in-person, face-to-face, one-on-one interviews with the client, the client's family, and other witnesses who are familiar with the client's life, history, or family history or who would support a sentence less than death. Potential contacts include: (a) members of the client's immediate and extended family; (b) neighbors, friends and acquaintances who knew the client or his family; (c) former teachers, clergy, employers, co-workers, social service providers, and doctors; and (d) correctional, probation, or parole officers. <sup>iv</sup>
	Multiple interviews will be necessary to establish trust, elicit sensitive information and conduct a thorough and reliable life-history investigation.
	Team members must endeavor to establish a rapport with the client and potential witnesses that will be necessary to provide the client with a defense in accordance with constitutional guarantees relevant to a capital sentencing proceeding.

## Client Voice & Procedural Justice



Figure 1<sup>v</sup>

People's experiences with the legal system are greatly influenced by how fair and transparent they perceive the system's decision-making process to be. This sense of fairness, known as procedural justice, is based on four pillars: (1) being fair in processes; (2) being transparent in actions; (3) providing opportunity for voice; and (4) being impartial in decision making.<sup>v</sup> Empirical studies consistently show that defense clients are more likely to feel that they were treated fairly and justly by the criminal legal system (procedural justice)

if their voice and story were heard within the court proceedings.<sup>vi</sup> The perception of procedural justice is also the strongest indicator for client satisfaction with their representation, regardless of the case outcome.<sup>vii</sup> Client and collateral interviews are critical for defense advocacy that supports procedural justice. How we work and advocate for our clients is equally important as the outcomes we achieve on their behalf. A strong, trauma-informed rapport with your client and a commitment to listening to your clients and elevating their stories will not only result in better case outcomes but will also help clients to feel that they were well-represented.

## Before Getting Started

Before engaging in the first interview, conference with the defense team. Expect to discuss:

- What type of mitigation is requested? (i.e., pre-plea, pre-sentence, parole advocacy)
- Timeframe and deadlines
- The defense's theory of the case
- The advocacy goals that the mitigating evidence will support
- Relevant background and impressions from the attorney's point of view
- Records that have already been requested and will need to be requested
- Expectations for communication (i.e. ongoing, when complete, email, phone calls)
- Plan for how mitigation specialist will be introduced to the client
- Note taking strategy related to defense litigation considerations about what should not be recorded

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*Practical tips for taking notes during an interview. While memorializing information is important, taking excessive notes during an interview can hinder rapport-building, assurances of confidentiality, and the ability of the interviewer to be fully present in the conversation. Tips to consider:*

- ✍ Be transparent about why you may need to take notes and what they will be used for.*
  - ✍ Write shorthand bullet points during the interview and then memorialize the conversation with detailed notes immediately following the interview.*
  - ✍ Consider partnering with the team investigator for the interview for note taking and later memory assistance.*
  - ✍ Chunk the interview process; plan discreet interviews for different periods in the interviewee's life.*
  - ✍ Be fully present to build non-verbal associations with stories; mental imagery is a strategy to enhance recall.*
- 

To develop a thorough life history report, expect to spend several hours (depending on the seriousness of the charge, age of the client, etc.) over multiple visits interviewing your client, their loved ones, and others with relevant information about the client's life history. Be prepared with adequate paper and writing utensils to take notes.

*Confidentiality & the Mental Health Professional on the Defense Team.* The American Bar Association, the National Association for Public Defense (NAPD), and the National Legal Aid and Defender Association have all issued guidance that attorney-client privilege must take precedence over any mandated reporting policies when it comes to staff working on the defense team. From the NAPD Formal Ethics Opinion 14-1<sup>viii</sup>:

The lawyer's obligation of confidentiality takes precedence over any obligation of disclosure that is imposed upon social workers or other healthcare professionals when they are working for the lawyer on a matter.

See Appendix A for further information about client confidentiality and mandated reporting in the State of New York (including Office of Children and Family Services Guidelines).

## First Visit

It is good practice to have an introductory visit (or phone call) with the client prior to starting the interview to:

- Introduce yourself and your role on the defense team (if not primary attorney).
- Explain the goal of your work together to conduct a life history investigation to identify mitigating information.
  - Example: I've been asked by your attorney to help gather information to use in your defense that explains who you are in your whole life and that you are far more than the charges against you.
- Explain that you will be asking questions about their whole lives (childhood through now) and that you understand this can be taxing (both emotionally and timewise) so you will likely meet several times.
- Remember to explain that you are part of the defense team, and the team is obligated to use the information you gather to help your case. Therefore, the attorney will review and consider all information before disclosing it to the prosecution or the court.
- Ask about the client's preferences regarding dates and times to meet (e.g., when they don't have programs or recreation time).

## Trauma Sensitive Interviewing Skills

Safety is an important pre-condition for trauma-sensitive life history interviewing. When your clients are detained, incarcerated, or living in unsafe environments, there may be little you can do to ensure their physical safety. But you can and should attend to your clients' psychological safety during the interview process. Building an authentic relationship with your client and their loved ones is critical.

The following tips support psychological safety and trauma-sensitive interviewing with clients and their loved ones:

### *Environment*

- When visiting a facility, request a private interview room and position the client's chair facing away from the window when possible, to enhance privacy and avoid triggering interactions or hypervigilant distractions.
- If conducting an interview in the community, make sure the location has privacy, is convenient to the interviewee, and that there is ample time to complete the interview. Some suggestions:

- Private “study room” at the local public library (may need advance reservation)
- A park with seating and space away from others
- Community spaces within housing developments (call ahead to request private room)
- Share an agenda, or goal, for the interview session with client at the beginning and seek agreement. Predictable environments and opportunities for client control are tenets of trauma-informed practice. An example approach:
  - Today I was hoping we could talk about your life from your earliest memories until somewhere in your teens. Is there a significant event or time in your teens that feels like a good point to stop at today?

### *Engagement*

- Start with broad, strengths-based questions to gain trust and align yourself with the client, such as:
  - First, can you just tell me a little about yourself? What do you like? What are you good at? Who are you closest to in your life?
  - [For interviews with people in client’s life]: The most important thing is that I have a good picture of everything you love about [client]; what do you think it’s important for the District Attorney and judge to know?
- Use open-ended, non-judgmental questions.

Do Ask	Do Not Ask
Tell me about discipline and punishment in your home growing up.	Were you abused as a kid?
Can you tell me about what it was like for [you/client] growing up?	When did they start doing bad things?

- Avoid assumptions that can silence authentic expression and sharing. Questions that are built on assumptions about the client’s identity, culture, or beliefs can have a silencing impact.

Do Ask	Do Not Ask
Tell me about your first crush (or love).	Who was your first girlfriend?
What were common celebrations in your home?	What did your family do for Christmas?

- Respond with compassion; do not react with emotion. Clients who have experienced complex trauma may shut down if they see that their experiences are causing distress to the interviewer. Practice self-reflection and grounding techniques to prepare yourself to be present and emotionally safe when interviewing the client.
- If a client is unwilling to disclose sensitive information, do not push. Validate how difficult it is to talk about difficult memories and reiterate the purpose of the interview (to provide the client with the best defense possible). You can revisit important topics later.



## Going Deeper

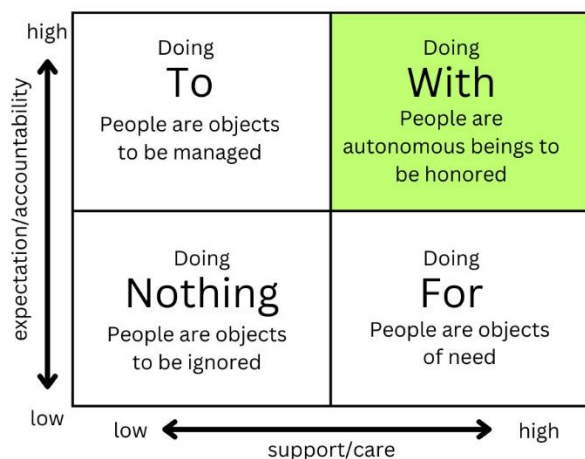
Use psychoeducation to validate and contextualize experiences as necessary. Some ways to integrate psychoeducation into the interview are:

- Externalize the problem. If your client is sharing a particularly traumatic story and appears to struggle to make sense of it, use that moment to explain how trauma impacts the brain and behavior, such as:  
Our brains use all sorts of ways to survive during and after traumatic events. Some coping skills that have served us really well in the past to survive don't serve us during other times. These are the lasting impacts of trauma; the longer we must work to just survive, the more the skills for mere survival are hardwired in our brains—skills that we mastered when we needed to fend off danger can do more harm than good in times of peace.
- Contextualize experiences. If your client reports little understanding of their own or someone else's diagnosis or substance use, there is an opportunity to share how these conditions impact behavior and relationships. This helps counter feelings of guilt and shame that can arise as clients recount stories.

## Power

Be aware of power. Power imbalance is a threat to collaboration between the interviewer and interviewee; it can inhibit trust, psychological safety, sharing, and cooperation. Power imbalance is particularly salient when your client is detained or incarcerated.

- Explicitly center the client as the leader on the mitigation project. For example: It's my job to help you tell your story.
- Contextualize experiences. As with psychoeducation, contextualizing social inequity can help both your client and you to understand how the client has navigated structurally oppressive environments, such as: parental incarceration, foster care, housing instability, etc.
- Be prepared to pause. Pay attention to your client's mood and affect and check in about how they are feeling. Ask if they need a break or would like you to come back another time to continue.



*Vaandering's (2013) Relationship Window depicts the impact of relational styles. Having both high expectations and providing high levels of support, where you are working with clients rather than for them, is the best way to engage productively and protect the client's agency.*

## Client Interviews

Begin every contact with an authentic inquiry about how the client is doing. Go slow, for example:

- How are you doing?
- How's it going with your cellmate and in your unit?
- How are things going at your job?
- Do you feel safe?
- Would you like me to advocate for anything you need from the facility?
- Are you ok with doing this work with me today?

Acknowledge that telling our stories isn't easy and reassure your client that your work together to tell their story will only be used to help their case.

Reiterate your role on the defense team and the parameters of confidentiality. Ask if there is anything that helps your client feel calm when things get overwhelming.

Start with broad prompts to help them begin to tell their story, such as:

- Let's start at the beginning. What is your very first memory?
- What do you know about your first day on earth?
- Can we start with a family tree?

Keep digging, using open-ended questions and minimal encouragers to facilitate storytelling. Open-ended questions often start with "How" and "What," while minimal encouragers prompt the interviewee to elaborate.<sup>ix</sup>

The client's response can almost always prompt an opportunity to understand more about the people, places, and things that shaped the client, for example:

- How did you spend time after school?
- Who else was there?
- What was that like for you?

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*The goal of the interview is to understand the client's life experiences from the first-person perspective. Practice active listening and limit interjections as much as possible. Ask clarifying questions as appropriate, but do not get stuck on chronology. Memories, especially traumatic memories, are often not stored chronologically. Reviewing records at a later time and collateral interviews can help clarify timelines.*

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Attend to the biological, psychological, social, spiritual, and cultural aspects of the life story (see Appendix B for Biopsychosocial Themes). As the life story unfolds, keep a holistic mindset, and listen for how experiences influence your client's self-narrative. Tools such as timelines and genograms can help orient the interview and serve as conversation prompts (see Appendix B for samples).

Ask for specific stories and write down important quotes. Mitigation is stronger when your client's voice permeates. Avoid structured interviews or a rote recital of interview questions. Natural conversation and a curious stance are the best approach to elicit a personal narrative.

Important tasks for the first interview:

- Gain consent to request and review relevant records (see Release Template in Appendix C). It is good practice to have multiple copies of the consent to release information on hand for your client to sign. Be sure the client signs and initials in appropriate locations on the form.
- Ask your client for permission to contact people in the community who know them. If possible, ask your client to reach out and give the contacts notice that you'll be reaching out.
- Gather names and contact information for collateral interviews, such as:
  - Family members;

- Friends (from different points in their life);
- Coworkers and supervisors;
- Clergy/spiritual leaders;
- Neighbors and community members; and
- Teachers and coaches.
- Ask your client to start collecting photographs from different periods in their life that can be included with the mitigation report.

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*When closing the interview, let the client know the next steps and when you will be back. Check in again about tangible needs and thank the client for their time and effort.*

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## Mental Status Examination

There may be instances during a client interview where a brief mental status exam is appropriate to assess your client's present ability to engage collaboratively in their defense. Some indications that a mental status exam is warranted include notable changes in your client's presentation: slurred speech, unusual difficulty forming sentences or finding words, unusual drowsiness or varied levels of alertness, irrational answers or stories, sudden inability to pay attention, talking to people who are not present, etc. Mental status examinations (MSE) involve brief exercises designed to assess your client's orientation to time and place, attention/concentration, short-term memory (recall), language skills, visuospatial abilities, and ability to understand and follow instruction.<sup>x</sup> There are many versions of the mini-mental status exam publicly available (see Appendix D for scorable exam forms in English and Spanish).

If you believe an MSE is warranted, ask your client how they are feeling and say that you'd like to ask a few questions to help determine how they are thinking and whether we need to break for the day. The following questions and exercises are commonly included in mental status examinations:

- What year is it?
- What season are we in?
- What is the day of the week?
- What state are we in?
- What facility is this?
- Repeat the words: ball, car, man. First immediately after each word and then as a list.
- Spell the word: WORLD. Now spell it backwards.
- Draw and label the hour markers on a clock, mark hands at ten past eleven.

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*The examiner must maintain a nonjudgmental, supportive attitude during the MSE. Culture, native language, level of education, literacy, and social factors such as sleep deprivation, hunger, or other stressors must be considered. These factors can affect performance. Language skills of the examiner and client are critical; the questions and responses must be understood by both to interpret the examination results. <sup>xi</sup>*

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If you have concerns about your client's mental state, immediately alert the defense attorney and discuss whether a psychological evaluation should be pursued. If your client is detained, the defense team should also determine if the facility's mental health department should be contacted to request that your client is visited and assessed for any immediate needs. If you are in the community and have concerns for your client's safety, the defense team should consider contacting the New York's Office of Mental Health, which operates a crisis text line for frontline workers: Text "FRONTLINENY" to 741-741 for specialized support.

## Family Interviews

People closest to your clients can provide additional information, context, and perspectives on their lives. It is important to engage family members in a trusting, nonjudgmental relationship. The experiences that have impacted your clients, including their arrest and detention (if relevant), have also impacted their loved ones. When possible, meet families in their homes, especially if it is the home they shared with your client. This offers valuable opportunity to understand the client's home environment and ask about displayed photos and other personal mementos. To elicit sharing, do not make assumptions about family structure, customs, or mores.

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*Families can offer valuable stories and anecdotes that will make the narrative richer, more empathetic, and a truer reflection of who the client is.*

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Practice **cultural humility**, which is:

- The curiosity and willingness to learn about different cultures;
- On-going self-reflection about bias and assumptions;
- Being okay with not knowing;
- Expressing interest in other people's experiences; and
- Remaining sensitive to power imbalances.<sup>xi</sup>

When contacting family:

- Introduce yourself and your role on the defense team clearly.
- Share that the client has given you permission to reach out to the family (if applicable).
- Explain the goal of the mitigation advocacy and the goal of the interview.
  - It is my job to help the prosecution and the court understand who [client] is. We hope that by understanding [client's] story and how much they mean to the people in their life, we can effectively advocate for [a lower sentence/better disposition]. It is important that I speak to the people who care about [client] so I can include their perspective. Nothing you say to me can hurt [client]. I work for the defense, and everything I submit will be reviewed by the defense attorney, and the defense attorney has the professional obligation not to say or present any information that can harm [client].

If possible, guide close family members through the life history. Gather information about pregnancy, developmental milestones, and earliest experiences of care for the client. Cover domains listed in the Biopsychosocial Themes document in Appendix B.

As with client interviews, write down anecdotes and direct quotes from the interviewees. Family and loved ones may inquire about the status of the case. If you are not the assigned attorney, it is most appropriate to redirect questions about the case to the attorney or the client.

## Community and Collateral Interviews

Interviews with community members and others who know your clients can offer a fuller picture of who they are and what they mean to the people in their life and community. It is important to respect your client's privacy when interacting with community members while also gathering information that can inform the narrative. When introducing yourself, remember to explain upfront that you work on the defense team and that your goal is to help the prosecution and the court understand the full picture of who the client is so that they can be treated fairly. Do not engage in

conversation about the alleged offense but steer the conversation towards the interviewee's experiences with the client. Some good questions to ask community and collateral interviewees:

- Can you tell me how you met [client]?
- How would you describe [client] to somebody that has never met them?
- In the time you have known [client], how have they grown/changed?
- What do you most admire about [client]?
- What do you want the judge to know about [client]?
- What do you hope for [client] in their future?

## Letters of Support

Letters from family and community supporters can be valuable additions to a mitigation presentation. The best letters testify to the character and potential of the client (see Appendix E for an example of a support letter). When asking a contact to write a letter of support be sure to provide the following guidance:

- Include your name and relationship to the client;
- Describe how long you have known the client;
- Provide personal knowledge about the client's character;
- Speak about the client's strengths and provide specific examples, if possible;
- Include information about the client's impact on the community and the impact of the absence of the client (i.e., due to detention/incarceration);
- If you have a professional relationship with the client (e.g., teacher, coach, supervisor), include positive observations about behaviors in the specific environment and submit the letter on professional letterhead, if possible;
- Do not give an opinion about the alleged offense;
- Address your letter to the intended audience (e.g., the judge, the prosecutor, the probation officer); and
- Sign the letter by hand.

## List of Appendices

- A. Confidentiality, NAPD Ethics Opinion 14.01 & OCFS Guidelines for Mandated Reporters
- B. Biopsychosocial Themes & Formulation, Genogram Basics
- C. Release of Information Templates (Medical and Educational)
- D. St. Luis University Mental Status Examination<sup>xiii</sup> (English and Spanish)
- E. Sample Support Letter

## References

- <sup>i</sup> Roger D. Fallot & Maxine Harris, *Trauma-Informed Approaches to Systems of Care*, Trauma Psychology Newsletter, vol 3, Issue 1 at 6-7 (Winter 2008).
- <sup>ii</sup> Ali Winters, *Trauma-Informed Service Provision for Justice-Involved Populations* [Presentation], NOFSW Foundation Forensic Social Work Certificate Program (2023), available at <https://NOFSW.org>.
- <sup>iii</sup> *Supplementary Guidelines for the Mitigation Function of Defense Teams in Death Penalty Cases*, 36 Hofstra L Rev 677, 692 (2008).  
[https://law.hofstra.edu/pdf/academics/journals/lawreview/lrv\\_issues\\_v36n03\\_cc1\\_guidelines\\_final.pdf](https://law.hofstra.edu/pdf/academics/journals/lawreview/lrv_issues_v36n03_cc1_guidelines_final.pdf)
- <sup>iv</sup> American Bar Association, *Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases* (2003), available at [https://www.americanbar.org/groups/committees/death\\_penalty\\_representation/resources/aba\\_guidelines/](https://www.americanbar.org/groups/committees/death_penalty_representation/resources/aba_guidelines/).
- <sup>v</sup> Charlene Moe & Melissa Bradley, *Organizational Change through Decision Making and Policy: A New Procedural Justice Course for Managers and Supervisors*, USDOJ Community Policing Dispatch, vol 8, Issue 4 (April 2015), available at [https://cops.usdoj.gov/html/dispatch/04-2015/a\\_new\\_procedural\\_justice\\_course.asp#:~:text=Procedural%20justice%20speaks%20to%20four,being%20impartial%20in%20decision%20making](https://cops.usdoj.gov/html/dispatch/04-2015/a_new_procedural_justice_course.asp#:~:text=Procedural%20justice%20speaks%20to%20four,being%20impartial%20in%20decision%20making).
- <sup>vi</sup> Lucas M. Alward & Thomas Baker, *Justice-Involved Males' Procedural Justice Perceptions of the Police and Courts: Examining the Spill-over Effect*, Criminal Justice Studies: A Critical Journal of Crime, Law and Society, vol 34, Issue 1 at 33-47 (2021).
- <sup>vii</sup> Kimberly M. Davidson, Brian J. Ostrom & Matthew Kleiman, *Client Perspectives of Holistic Defense: Strengthening Procedural Justice through Enhanced Client Trust*, Justice System Journal, vol 43, Issue 1 at 128-150 (April 2022).
- <sup>viii</sup> National Association for Public Defense, *NAPD Formal Ethics Opinion 14-1* (2023), available at <https://publicdefenders.us/resources-listing/napd-ethics-opinions/confidentiality-of-client-information/>
- <sup>ix</sup> Ruth Ann McKinney, *Are We Hearing What They're Saying? Active Listening Skills for Lawyers*, University of North Carolina School of Law (1997).
- <sup>x</sup> Healthdirect Australia, *Mini-Mental State Examination (MMSE), Scoring, Results and Uses* (2022), available at <https://www.healthdirect.gov.au/mini-mental-state-examination-mmse>.
- <sup>xi</sup> Hansong Zhang, C. Edward Watkins, Jr., Joshua N. Hook, Adam S. Hodge, Cameron W. Davis, Jolene Norton, Melanie M. Wilcox, Don E. Davis, Cirleen DeBlaere & Jesse Owen, *Cultural Humility in Psychotherapy and Clinical Supervision: A Research Review*, Counselling & Psychotherapy Research, vol 22, Issue 3 at 548-557 (Sept 2022), available at <https://doi-org.ezproxy.simmons.edu/10.1002/capr.12481>
- <sup>xii</sup> K.C. Applegate, S.L. Erickson, and K.L. Salekin, *Mental Status Examination*, The SAGE Encyclopedia of Intellectual and Developmental Disorders (February 2018).
- <sup>xiii</sup> SH Tariq, N Tumosa, JT Chibnall, HM Perry III, and JE Morley. *The Saint Louis University Mental Status (SLUMS) Examination for detecting mild cognitive impairment and dementia is more sensitive than the MiniMental Status Examination (MMSE) - A pilot study*. Am J Geriatr Psych 14:900-10, 2006, available at [https://www.slu.edu/medicine/internal-medicine/geriatric-medicine/aging-successfully/pdfs/slums\\_form.pdf](https://www.slu.edu/medicine/internal-medicine/geriatric-medicine/aging-successfully/pdfs/slums_form.pdf)

APPENDIX A  
Confidentiality & the  
Interdisciplinary Defense  
Team

**Confidentiality & the Mental Health Professional on the Defense Team:** The American Bar Association and the National Association for Public Defense (NAPD) issued guidance that attorney-client privilege must take precedence over any mandated reporting policies when it comes to staff working on the defense team. From the NAPD Formal Ethics Opinion 14-1:

*The lawyer's obligation of confidentiality takes precedence over any obligation of disclosure that is imposed upon social workers or other healthcare professionals when they are working for the lawyer on a matter.*

The boundaries of duty to report is explained in New York's Office of Children and Family Services (OCFS) guidelines:

*The mandated reporter's legal responsibility to report suspected child abuse or maltreatment ceases when the mandated reporter stops practicing his/her profession.*

The OCFS guidelines make clear that the duty to report is tied to the role being performed. Notably, in New York, while social workers and other mental health professionals have applicable experience and expertise to perform mitigation work, practicing as a mitigation specialist may be considered separate from practicing as a social worker or mental health professional.

The most ethical approach is to communicate early and often with the client about the mitigation specialist's role. In the event that the contracted mitigation specialist operates outside of the above referenced guidance, it is imperative that the hiring attorney and the client are made aware of any limits to confidentiality at each meeting.

See following resources for more information:

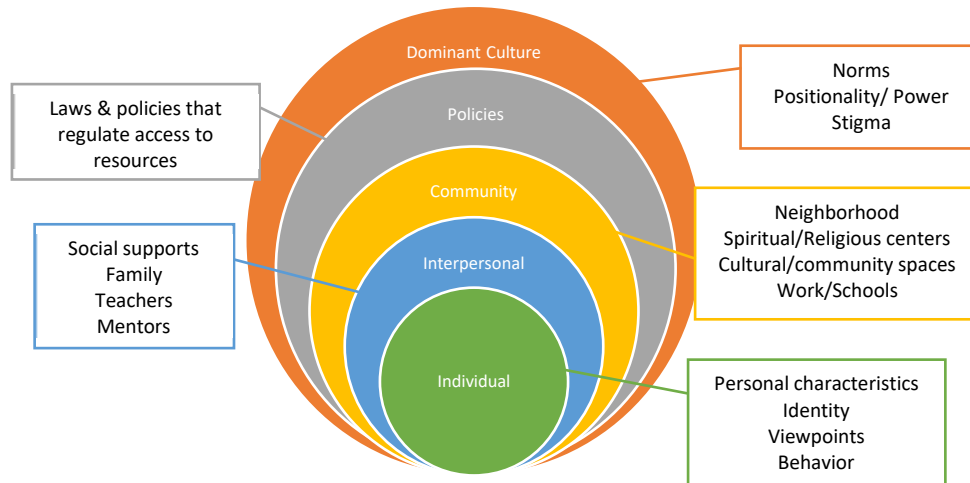
- National Association for Public Defense, Formal Ethics Opinion 14-1
  - <https://publicdefenders.us/resources-listing/napd-ethics-opinions/confidentiality-of-client-information/>
- American Bar Association, Rule 1.6 Confidentiality of Information-Comment
  - [https://www.americanbar.org/groups/professional\\_responsibility/publications/model\\_rules\\_of\\_professional\\_conduct/rule\\_1\\_6\\_confidentiality\\_of\\_information/comment\\_on\\_rule\\_1\\_6/](https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_1_6_confidentiality_of_information/comment_on_rule_1_6/)
- OCFS Summary Guide for Mandated Reporters in New York State
  - <https://ocfs.ny.gov/publications/Pub1159/OCFS-Pub1159.pdf>



# APPENDIX B

## Biopsychosocial Themes & Formulation, Geno-gram Basics

**The Ecological Framework:** Everyone is best understood in the context of their family, community, environment, and society within which they live. A biopsychosocial-spiritual assessment requires the critical analysis of the characteristics and interplay of the various dimensions of person's life. <sup>1</sup>



#### Common Themes for a Biopsychosocial Interview:

- Family of Origin
- Developmental milestones
- Traumas
- Sleep/exercise
- Strengths & resources
- Work status/history
- Romantic experiences
- Physical health history
- Suicidal ideation
- Mental health history
- Relationships
- Community/environment
- Hobbies/recreation
- Substance use history
- Cultural Influences
- Spiritual life/background
- Military service
- Education
- Family of Choice
- Legal History
- Experiences of Discrimination

#### Common Genogram Symbols:



Names and ages are often included in the boxes.

Mitigation standards recommend that 2-3 generations of family history be explored.

#### 4P Framework:

**Predisposing Factors:** The biological, psychological, and social factors that make an individual vulnerable to a particular issue. For example, genetics, social determinants of health, and early developmental trauma may all predispose a person to higher risk.

**Precipitating Factors:** The events or situations that trigger the onset of a particular issue. For example, loss of employment, death of a loved one, injury or surgery, and so on. Often stressors trigger the onset of a behavior or condition.

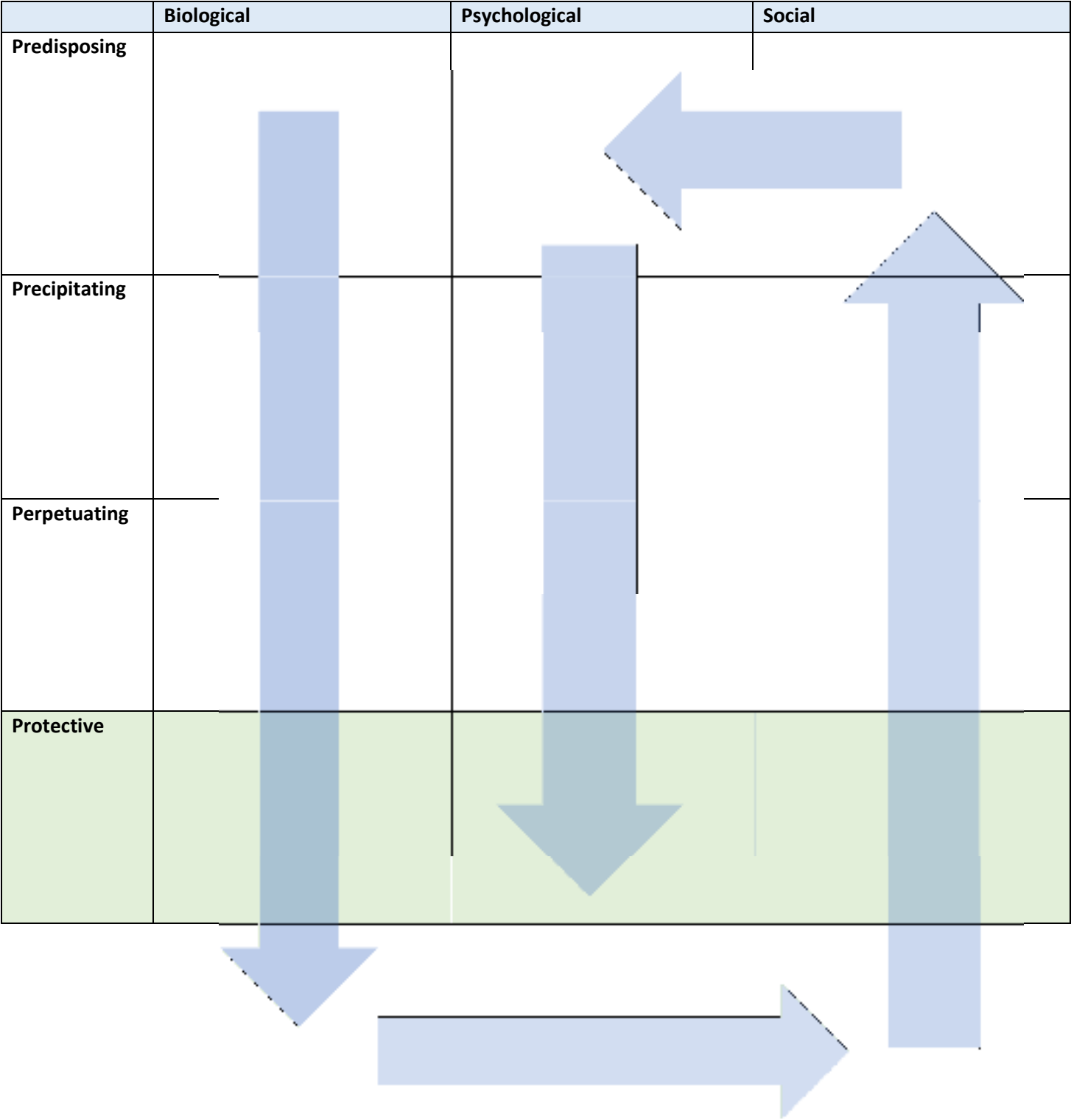
**Perpetuating Factors:** The factors that maintain or make worse an issue over time. These can be community conditions, societal positionality, family dynamics, economic conditions, etc.

**Protective Factors:** The factors that counteract the above listed factors. These can be personal to the client, like intelligence, creativity, and compassion, or relate to the family, community, or environment which the client is a member of.

	Biological	Psychological	Social
<b>Predisposing</b>	<ul style="list-style-type: none"><li>• Prenatal, neonatal, &amp; early childhood development &amp; temperament</li><li>• Brain function, structure, injury</li><li>• Genetics: family psychiatric history, health history</li><li>• Health history &amp; behavior</li></ul>	<ul style="list-style-type: none"><li>• Early life experiences</li><li>• Cognitive schemas</li><li>• Attachment style</li><li>• Emotional regulation</li><li>• Coping Strategies</li><li>• Self-image/esteem</li><li>• Consistent personality traits/characteristics</li></ul>	<ul style="list-style-type: none"><li>• Quality of social supports/community</li><li>• Socioeconomic status</li><li>• Positionality/experiences of marginalization &amp; oppression</li><li>• Environmental factors</li><li>• Immigration status/story</li><li>• Exposure to violence, abuse, or maltreatment</li></ul>
<b>Precipitating</b>	<ul style="list-style-type: none"><li>• Traumatic Brain Injury</li><li>• Sleep Disorder</li><li>• Serious injury/surgery &amp; prescription</li><li>• Hormonal imbalance</li><li>• Pregnancy</li><li>• Medication adherence behaviors</li><li>• Substance use increase</li></ul>	<ul style="list-style-type: none"><li>• Trauma</li><li>• Loss and grief</li><li>• Chaotic transitions</li><li>• Chronic stress</li><li>• Cognitive distortions</li><li>• New emotional dysregulation</li><li>• Acute relational discord</li></ul>	<ul style="list-style-type: none"><li>• Loss of/separation from loved one</li><li>• Interpersonal trauma</li><li>• Work/school/economic stress</li><li>• Isolation</li><li>• Discrimination/oppression</li><li>• Loss of home</li></ul>
<b>Perpetuating</b>	<ul style="list-style-type: none"><li>• Chronic Illness/pain</li><li>• Cognitive difference/learning disability</li><li>• Lack of treatment/poor treatment</li><li>• Neurological conditions</li></ul>	<ul style="list-style-type: none"><li>• Chronic negativity &amp; external reinforcement of negativity</li><li>• Maladaptive coping</li><li>• Cognitive biases</li><li>• Emotional dysregulation</li><li>• Trauma</li><li>• Cognitive schemas/beliefs</li></ul>	<ul style="list-style-type: none"><li>• Chronic relational discord</li><li>• Inappropriate developmental expectations (i.e., adultification)</li><li>• Instability (home &amp; school)</li><li>• Chronic isolation</li><li>• Insufficient supports in community</li><li>• Racism, stigma, and marginalization</li><li>• Lack of community resources</li></ul>
<b>Protective</b>	<ul style="list-style-type: none"><li>• Genetic Factors</li><li>• Physical health/fitness</li><li>• Healthy lifestyle/diet</li><li>• Strong sleep habits</li><li>• High intelligence, specific talents</li></ul>	<ul style="list-style-type: none"><li>• Positive coping skills</li><li>• Positive self-esteem</li><li>• Positive racial identity</li><li>• Sense of purpose</li><li>• Effective problem solving</li><li>• Social support</li><li>• Emotional regulation skills</li></ul>	<ul style="list-style-type: none"><li>• Positive relationships</li><li>• Supportive community</li><li>• Religious/spiritual life</li><li>• Good school/work opportunity</li><li>• Economic stability</li><li>• Access to resources/healthcare</li></ul>

Adapted from: Biopsychosocial model and case formulation. (2022, January 2). PsychDB. Teaching Files. <https://www.psychdb.com/teaching/biopsychosocial-case-formulation>

The previous table offers general themes and ideas to inform the interview. Remember, psychological symptoms are the result of the biological and social factors impacting the client. You can use the template below to plan your interview and/or formulation of the client's life history arc.



APPENDIX C  
Release of Information  
Templates  
(Health & School)

**AUTHORIZATION FOR RELEASE OF HEALTH INFORMATION PURSUANT TO HIPAA****[This form has been approved by the New York State Department of Health]**

Patient Name	Date of Birth	Social Security Number
Patient Address		

I, or my authorized representative, request that health information regarding my care and treatment be released as set forth on this form:

In accordance with New York State Law and the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), I understand that:

1. This authorization may include disclosure of information relating to **ALCOHOL** and **DRUG ABUSE, MENTAL HEALTH TREATMENT**, except psychotherapy notes, and **CONFIDENTIAL HIV\* RELATED INFORMATION** only if I place my initials on the appropriate line in Item 9(a). In the event the health information described below includes any of these types of information, and I initial the line on the box in Item 9(a), I specifically authorize release of such information to the person(s) indicated in Item 8.
2. If I am authorizing the release of HIV-related, alcohol or drug treatment, or mental health treatment information, the recipient is prohibited from redisclosing such information without my authorization unless permitted to do so under federal or state law. I understand that I have the right to request a list of people who may receive or use my HIV-related information without authorization. If I experience discrimination because of the release or disclosure of HIV-related information, I may contact the New York State Division of Human Rights at (212) 480-2493 or the New York City Commission of Human Rights at (212) 306-7450. These agencies are responsible for protecting my rights.
3. I have the right to revoke this authorization at any time by writing to the health care provider listed below. I understand that I may revoke this authorization except to the extent that action has already been taken based on this authorization.
4. I understand that signing this authorization is voluntary. My treatment, payment, enrollment in a health plan, or eligibility for benefits will not be conditioned upon my authorization of this disclosure.
5. Information disclosed under this authorization might be redisclosed by the recipient (except as noted above in Item 2), and this redisclosure may no longer be protected by federal or state law.
6. **THIS AUTHORIZATION DOES NOT AUTHORIZE YOU TO DISCUSS MY HEALTH INFORMATION OR MEDICAL CARE WITH ANYONE OTHER THAN THE ATTORNEY OR GOVERNMENTAL AGENCY SPECIFIED IN ITEM 9 (b).**

7. Name and address of health provider or entity to release this information:

8. Name and address of person(s) or category of person to whom this information will be sent:

9(a). Specific information to be released:

- ☐ Medical Record from (insert date) \_\_\_\_\_ to (insert date) \_\_\_\_\_
- ☐ Entire Medical Record, including patient histories, office notes (except psychotherapy notes), test results, radiology studies, films, referrals, consults, billing records, insurance records, and records sent to you by other health care providers.
- ☐ Other: \_\_\_\_\_ Include: *(Indicate by Initialing)*

\_\_\_\_\_ **Alcohol/Drug Treatment**  
\_\_\_\_\_ **Mental Health Information**  
\_\_\_\_\_ **HIV-Related Information**

**Authorization to Discuss Health Information**

- (b) ☐ By initialing here \_\_\_\_\_ I authorize \_\_\_\_\_  
Initials Name of individual health care provider  
to discuss my health information with my attorney, or a governmental agency, listed here:  
\_\_\_\_\_  
(Attorney/Firm Name or Governmental Agency Name)

10. Reason for release of information: <input type="checkbox"/> At request of individual <input type="checkbox"/> Other:	11. Date or event on which this authorization will expire:
12. If not the patient, name of person signing form:	13. Authority to sign on behalf of patient:

All items on this form have been completed and my questions about this form have been answered. In addition, I have been provided a copy of the form.

\_\_\_\_\_  
Signature of patient or representative authorized by law.

Date: \_\_\_\_\_

\* **Human Immunodeficiency Virus that causes AIDS. The New York State Public Health Law protects information which reasonably could identify someone as having HIV symptoms or infection and information regarding a person's contacts.**

## AUTHORIZATION FOR RELEASE OF EDUCATIONAL RECORDS

Carefully read the information below.

After completing this form, submit it to the local Department of Education or School District to release educational records pertaining to your child or you.

In accordance with the Family Educational Rights and Privacy Act of 1974 ("FERPA"), the New York State public schools must obtain written consent from a parent or eligible student before disclosing a student's educational records containing personally identifiable information. (An eligible student is someone who has reached 18 years of age or is attending an institution of postsecondary education.)

To have such educational records for your child or you disclosed, you must do the following:

1. sign and date this form;
2. specify which records are to be disclosed;
3. identify the parties or class of parties to whom the disclosure may be made; and
4. provide the purpose of or reason for the disclosure.

You may also request that the public school district provide you and/or the student with a copy of the records disclosed.

To: \_\_\_\_\_ (write school or district here)

RE:

Student's Name: \_\_\_\_\_ Date of birth: \_\_\_\_\_

Student's SSN: \_\_\_\_\_

I, \_\_\_\_\_, am:

Check one: ☐ the parent or legal guardian of the student listed on this form; or

☐ the student listed on this form. I am at least 18 years of age or attend an institution of postsecondary education.

I give my written consent to the \_\_\_\_\_ (school district) to disclose the student's educational records, as I have specified on this form, to the party(ies) and for the purpose listed below.

The educational records that may be disclosed are:

Check one:

☐ all educational records pertaining to me or my child, including, but not limited to, all attendance, academic, medical, psychiatric, psychological, social history, anecdotal, special education, and early intervention records. OR

☐ the following educational records:

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The party(ies) to whom the student’s educational records may be disclosed is/are:

The purpose or reason for the disclosure is:

I understand that my written consent will last as follows:

Check one:

- ☐

Remains in effect until I notify the New York City Department of Education in writing to cancel it. OR
- ☐

Is limited to a single disclosure of records. OR
- ☐

I further understand that I may withdraw the consent that I have given in this authorization by notifying the New York City Department of Education in writing at the address listed above that I withdraw my consent.

Dated: \_\_\_\_\_

Signature of parent or eligible student \_\_\_\_\_

Print name of parent or eligible student \_\_\_\_\_

You are advised to keep a copy of this consent form for your records.



## **APPENDIX D**

# **St. Luis University Mental Status Examination (English & Spanish)**

# VAMC SLUMS EXAMINATION

For training on how to use this tool visit:  
<https://www.youtube.com/watch?v=z4ctoWU-qzw>

Questions about this assessment tool? E-mail [aging@slu.edu](mailto:aging@slu.edu)

Name \_\_\_\_\_ Age \_\_\_\_\_

Is the patient alert? \_\_\_\_\_ Level of education \_\_\_\_\_

\_\_\_/1  
\_\_\_/1  
\_\_\_/1  
\_\_\_/3  
\_\_\_/3  
\_\_\_/5  
\_\_\_/2  
\_\_\_/4  
\_\_\_/2  
\_\_\_/8

**1** 1. What day of the week is it?

**1** 2. What is the year?

**1** 3. What state are we in?

4. Please remember these five objects. I will ask you what they are later.

Apple Pen Tie House Car

5. You have \$100 and you go to the store and buy a dozen apples for \$3 and a tricycle for \$20.

**1** How much did you spend?

**2** How much do you have left?

6. Please name as many animals as you can in one minute.

**0** 0-4 animals **1** 5-9 animals **2** 10-14 animals **3** 15+ animals

7. What were the five objects I asked you to remember? 1 point for each one correct.

8. I am going to give you a series of numbers and I would like you to give them to me backwards. For example, if I say 42, you would say 24.

**0** 87 **1** 648 **1** 8537

9. This is a clock face. Please put in the hour markers and the time at ten minutes to eleven o'clock.

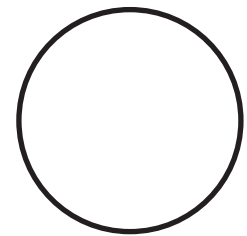
**2** Hour markers okay

**2** Time correct

**1** 10. Please place an X in the triangle.



**1** Which of the above figures is largest?



11. I am going to tell you a story. Please listen carefully because afterwards, I'm going to ask you some questions about it.

Jill was a very successful stockbroker. She made a lot of money on the stock market. She then met Jack, a devastatingly handsome man. She married him and had three children. They lived in Chicago. She then stopped work and stayed at home to bring up her children. When they were teenagers, she went back to work. She and Jack lived happily ever after.

**2** What was the female's name?

**2** What work did she do?

**2** When did she go back to work?

**2** What state did she live in?

**TOTAL SCORE**

## SCORING

### HIGH SCHOOL EDUCATION

27-30  
21-26  
1-20

### NORMAL

MILD NEUROCOGNITIVE DISORDER  
DEMENTIA

### LESS THAN HIGH SCHOOL EDUCATION

25-30  
20-24  
1-19

CLINICIAN'S SIGNATURE \_\_\_\_\_

DATE \_\_\_\_\_

TIME \_\_\_\_\_

**SAINT LOUIS UNIVERSITY**  
**EXAMEN DEL ESTADO MENTAL (SLUMS)**



Nombre: \_\_\_\_\_  
¿Está el paciente alerta? \_\_\_\_\_

Edad: \_\_\_\_\_  
Nivel educativo: \_\_\_\_\_

\_\_\_/1 **1** 1. ¿Qué día de la semana es hoy? \_\_\_\_\_

\_\_\_/1 **1** 2. ¿En qué año estamos? \_\_\_\_\_

\_\_\_/1 **1** 3. ¿En qué pueblo estamos? \_\_\_\_\_

4. Por favor recuerde los cinco objetos que le voy a nombrar. Más tarde le preguntare nuevamente por ellos. **Manzana Lápiz Corbata Perro Casa**

\_\_\_/3 5. Usted tiene \$100, y compra en la tienda una docena de manzanas por \$3 y una bicicleta por \$20.

**1** ¿Cuánto dinero gastó? **2** ¿Cuánto dinero le queda?

\_\_\_/3 6. Por favor en un minuto nombre todos los animales que pueda.

**0** 0-4 animales **1** 4-9 animales **2** 10-14 animales **3** >15 animales

\_\_\_/5 7. ¿Cuáles fueron los 5 objetos que le dije que recordara? **1** punto por cada objeto nombrado correctamente.

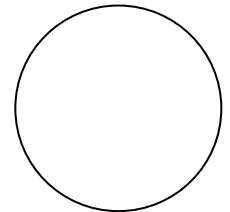
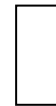
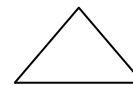
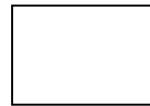
\_\_\_/2 8. Voy y a decirle una serie de números. Me gustaría que usted me los dijera al revés. Por ejemplo si yo digo 42, usted debe decir 24. **0** 87 **1** 649 **2** 8537

\_\_\_/4 9. El círculo representa un reloj. Por favor escriba los números de las horas y las manecillas del reloj señalando las once menos diez.

**2** Números en posición correcta **2** Hora correcta

\_\_\_/1 10. **1** Por favor, marque el triángulo con una X:

\_\_\_/1 **1** ¿Cuál de estas figuras es la más grande?



\_\_\_/8 11. Voy a contarle una historia. Por favor, escuche cuidadosamente, porque al terminar le voy a hacer unas preguntas sobre esta historia.

*María era una abogada muy exitosa y ganaba mucho dinero en la compañía donde trabajaba. Ella conoció a Carlos, un hombre muy apuesto, y, al cabo del tiempo, se casaron, tuvieron 3 hijos y vivían en Hato Rey. Ella dejó de trabajar para criar a sus hijos, cuando estos fueron adolescentes, ella volvió a trabajar. Ella y Carlos vivieron felices por siempre.*

**2** ¿Cuál era el nombre de la mujer?

**2** ¿Cuándo volvió a trabajar?

**2** ¿Cuál era su profesión?

**2** ¿En qué pueblo vivía?

\_\_\_\_\_ **PUNTUACIÓN TOTAL**

Educación secundaria completa		PUNTUACIÓN	Educación secundaria incompleta	
27 – 30.....	<b>NORMAL</b>	.....	25-30	
21 – 26.....	<b>MCI</b>	.....	20-24	
(Alteración cognitiva mínima)				
1-20 .....	<b>DEMENCIA</b>	.....	1-19	



# **APPENDIX E**

## **Sample Support Letter**

# HELPING FAMILIES HEAL PROGRAM

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Nancy Nice | N.Nice@HFHP.org

January 25, 2024

Honorable Jamila R. Judgment  
123 Court House Row  
Anytown, NY 11229

*RE: James Jones (Case No. xxxxxx)*

Dear Judge Judgment:

Please accept this letter in support of James Jones. I have known James for almost eight years, first as a participant in the HFH afterschool program and later as an employee in that same program. In the capacities I have known James, he has consistently displayed care and compassion for his peers and the youth in our program.

I remember when James came into our program at ten years old. His family had recently moved into the local domestic violence shelter, and he had a priority spot in the afterschool program. For three whole weeks, James did not speak to a single person. Even so, he made himself known to the adults. He formed a special attachment to one staff, who he followed around like a shadow. Finally, he announced to the whole group that he was very good at math and would like to offer his skills as a math tutor to the younger children.

Since those early days, we have watched James grow, sometimes thriving and sometimes stumbling. What has remained consistent is care for and attention to the staff in the program. More than once, he contacted program staff, asking for advice or offering to help during his free time. He wants to stay connected.

When James turned 16, we offered him a position in the afterschool program. He takes the job seriously. He treats the participants with respect, and his attendance is almost perfect. I don't know a lot about James' home life right now, but I do know that he has lived in many homes and has disappeared to foster care twice since first coming into our program.

If the Court finds it appropriate to allow James to stay in the community, I commit to supporting him and helping him to remain accountable to any terms of community supervision. I know he can comply. I fear incarceration will negatively impact James for the rest of his life. I know he is scared and has learned a good lesson.

I hope learning about his value to our community and knowing how much I believe in him helps you make your difficult decision.

Please feel free to contact me with any questions or suggestions on how I can help James.

Sincerely,

Nancy Nice

123 Flowers St, Anytown, NY

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Office: 781-555-1234 |