



Initial Interview and Gathering Client Information

Presented by Ashley Carter, Esq.
Regional Consultant with the
Michigan Indigent Defense Commission

August 26, 2016

Initial Interview and Gathering Client Information
Presented by Ashley Carter
Regional Consultant
Michigan Indigent Defense Commission
26 August 2016

Presentation Outline

- I. Michigan Indigent Defense Commission (MIDC) Conditionally Approved Standard 2: Initial Interview
 - a. Purpose
 - b. Guiding Principals
 - i. The MIDC Act
 - ii. American Bar Association Ten Principals of a Public Defense Delivery System
 - iii. United States Supreme Court
 - c. Interview Guidelines
 - i. Timing
 - ii. Setting
 - iii. Preparation
 - iv. Client Status
 - v. Language Differences
- II. The Actual Interview
 - a. Client's Personal Information
 - i. General Information
 - ii. Health/Mental Health Issues
 - iii. Work/Education Information
 - iv. Open Cases
 - b. Discussing the Case
 - i. Communicating Charges to the Client
 - ii. Explaining the Nature of the charges (Misdemeanor v. Felony)
 - iii. Facts of the Case
 - iv. Information Useful in Investigation
 - c. Presenting Next Steps in the Case
 - d. State Bar of Michigan Interview Model
 - i. Public Benefits
 - ii. Driver's License
 - e. Using Client information in Your Bail Application
- III. Using the Information You've Just Gathered
 - a. Collateral Consequences
 - i. Employment
 - ii. Education
 - iii. Immigration
 - iv. Child Custody
 - v. Housing
 - b. Holistic Representation
- IV. Conclusion

THE INITIAL INTERVIEW

PERSONAL INFORMATION

This is where you are seeking to gather personal information that will be used for client contact information, collateral consequence assessment, work and housing information, health issues, and anything else that you think would be useful.

NAME (*This may seem unnecessary but sometimes the wrong client comes into the interview.*)

PLACE OF BIRTH

- *This is useful for determining immigration status. If client is not born in the US, **ask what their immigration status is**: green card holder, no status, naturalized, etc.*

BEST PHONE NUMBER TO REACH CLIENT

ADDRESS/MAILING ADDRESS

ANY MAJOR HEALTH ISSUES?

- *This is important for a few reasons. If there are any injuries to the client after arrest this could be useful for the case. It will be important to know if the injuries were the result of the incident in question, preexisting, or during police custody. Other health issues could impact client's ability to come back to court and if bail is set, could require special medical attention.*

ANY MENTAL HEALTH DIAGNOSIS? (*You can usually assess if this question needs to be asked.*)

HIGHEST LEVEL OF EDUCATION

ARE YOU WORKING OR IN SCHOOL?

ANY FAMILY MEMBERS EXPECTED AT ARRAIGNMENT?

ANY FAMILY LIVING IN THE AREA?

HAVE YOU EVER BEEN ARRESTED BEFORE?

HAVE YOU EVER PLED GUILTY OR BEEN CONVICTED OF A CRIME?

- *This question allows you to preliminarily gauge the Client's criminal record history. This can be useful for preparing the client for possible bail determinations by the Judge.*

ARE THERE ANY WARRANTS THAT YOU ARE AWARE OF?

DO YOU HAVE ANY OTHER OPEN CASES?

- *If so, ask the Client when their next court date is. If the client knows this information, it can be helpful to show the Judge that the client is on top of their criminal case despite being rearrested on a new case.*

IF YES, WHO IS YOUR LAWYER?

THE CASE

After gathering personal information you can transition into talking to the client about the case.

START BY READING THE CHARGES

- *It is helpful to explain what each charge means after reading the list of charges. It is also useful to explain whether the charge is a felony or a misdemeanor and what those words mean.*
 - **Misdemeanor** – In Michigan, a misdemeanor is any case punishable by up to one year in jail. That does not mean you will necessarily spend any time in jail, only that that is the maximum possibility.
 - **Felony** – A felony is any case punishable by *more* than one year jail. That doesn't mean you will go to jail, only that a conviction of that charge can come with more than one year jail.

WHAT HAPPENED?

- *Asking the client this open ended question allows him/her to give their version of the facts. After asking their version, it's a good idea to read the client the factual allegations and let them verify or deny the accusations.*
- ➔ At this point you can also begin your investigation of the case. Helpful Questions:
 - Was anyone arrested with you?
 - What time of day did this incident occur?
 - What type of location was this? (Store? Empty lot? House? Bar? Etc.)
 - Do you know if there is video?
 - Do you know who called the police?
 - If the case involves a victim, does client know this person/people?
 - If known to the client, does he/she have contact information for this individual?

NEXT STEPS

This is where you will give the client an idea of what to expect next.

- You can start by telling the client that they will likely have to return to court.
- Remind the client to use discretion when discussing the case. If fact, it is better if they don't at all.
- Be sure to give them your business card/contact information and a paper with the next court date written down.
- Ask the client if he/she has any follow up questions.
- It is a good idea to ask the client what they understand about what you have just told them to mean. Often times a client won't have any questions but still isn't clear on the process or next steps.

Feel free to add any other questions that you think are relevant to your case. This is likely your first interaction with your client and serves as an important opportunity to begin building the relationship with your client.

Client Questionnaire

Today's Date: _____

Our job, as your attorneys in a criminal case, is to help you be treated fairly under the law. We cannot guarantee the results of your case. Whatever happens, we will keep you fully informed of what is happening in your case and the options available to you, including options for trial and any offers by the prosecution of a reduced plea or a sentence bargain.

In addition to securing a favorable ending to your criminal case, we want to make sure that the outcome of your criminal case, to the extent possible, does not cause difficulties for you in any other part of your life, like your job, your housing, or your education. For example, if you are not a citizen of the United States, you can be removed from the U.S. for some convictions. Whether you are a citizen or not, you can also lose your job, get evicted, have your parental rights terminated, or lose your educational benefits. We want to avoid those problems to the extent possible. Please fill out this questionnaire. The more information we have about you and your life, the easier it will be to try to avoid any problems in your life.

► **Information you provide is confidential and protected by attorney-client privilege.**

Your Name: _____

Age: _____ Date of Birth: _____

Charges filed against you: _____

Court in which the charges are filed: _____

YOUR FAMILY

Marital Status: _____

If married or living together, list name of spouse or partner: _____

Do you have children or stepchildren: YES NO

If you have children or stepchildren **who live with you**, for each child, list the child's name, date of birth, relationship, and name of the other parent:

Name	Date of Birth	Child or Stepchild	Other Parent
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

If you have children **who do not live with you**, list the child's name, date of birth, name of the other parent, and who has custody/guardianship of the child:

Name	Date of Birth	Other Parent	Custody/Guardianship
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Have you lost your parental rights as to any of the children listed above: YES NO

If you have lost your parental rights, please list the names of the children for which your parental rights have been terminated:

For any of your children, is the other parent dead, missing, or incarcerated: YES NO

If yes, please give details: _____

CITIZENSHIP

▶ If you are not a U.S. citizen, a criminal conviction could lead to your removal from the United States. **This office does not have expertise in immigration law. You should seek advice from an immigration attorney before accepting any resolution of your criminal case.**

Are you a U.S. Citizen: YES NO

If you are not a U.S. citizen:

What is your immigration status: _____

How long have you been in the United States: _____

Have you ever been removed from the U.S. or been refused admission at the border: YES NO

If yes, where and for what crimes: _____

YOUR CRIMINAL RECORD

▶ Whether you have a record, the kind of prior convictions, their date, and the type of offense can affect your sentence, if you are convicted now. Your record can also affect the outcome of this case. A criminal conviction may have occurred any time that you went to court and were fined, placed on probation, or sentenced to jail.

Have you even been convicted of a crime before these charges were filed? YES NO

If you have been convicted of a crime before, please list every conviction you have ever had, the date of conviction, and the court you were convicted in. Please include convictions in other states, in the military, or in other countries.

List the charges and the courts they are in: _____

Are you currently on probation: YES NO

Are you currently on parole: YES NO

List the conviction(s) that resulted in probation or parole, when you were first placed on probation or parole, and when you are scheduled to be released from probation and parole.

▶ Your arrest, even without a conviction, may result in a violation of your probation or parole. You also are required to report your arrest, or any new charges, to your probation officer or parole officer.

Have you reported your arrest, or these charges, to your probation or parole officer? YES NO

EMPLOYMENT:

▶ Certain criminal convictions can prevent you from working in a particular job or from getting/keeping an occupational license.

What kind of work do you do: _____

If you are employed, is your job located within 1,000 feet of a school: YES NO

How many people do you support with your income: _____ No. of adults _____ No. of children

List any professional or occupational licenses you have (e.g. cab license, plumbing license): _____

Have you had to pass a background check to get a job: YES NO

If yes, explain: _____

Have you, or do you intend to, work in:

- schools or school services (e.g. teacher, school janitor, school cafeteria, etc.)
- healthcare
- a place that cares for the elderly or persons with disabilities (adult foster home, nursing home, etc.)
- private security/security guard
- airlines
- transportation
- childcare
- government employment
- military
- tribal government or Native American casinos

▶ If you work in schools, long-term care, transportation, childcare, and certain other fields, you may be required to report your arrest or any conviction to your employer.

Have you reported your arrest to your employer: YES NO

HOUSING

▶ If you are convicted of a criminal offense, depending on your conviction, you can be evicted. If you live in subsidized housing or have a Section 8 voucher, you can lose that as well. **The members of your household can also lose their housing.** You should talk to a legal aid attorney.

If you rent, do you have a lease: YES NO

If yes, when is your lease up: _____

Has your landlord threatened to evict you: YES NO

Do you live in subsidized rental housing or have a Section 8 voucher: YES NO

If you live in subsidized housing or have a Section 8 voucher, list every person who lives with you, including their name, age, and relationship to you:

Name	Age	Relationship to You
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Whose name is on the lease and/or on the Section 8 voucher: _____

▶ If you are ever convicted of a sex offense, you may no longer be able to live within 1000 feet of a school, even if you own your home.

Is your home within 1000 feet of a school: YES NO

PUBLIC BENEFITS

▶ In many states, if you are convicted of a drug-related felony, you will be unable to receive cash assistance (TANF) or food stamps for the rest of your life. As of July 2007, Michigan residents with drug-related felonies remain eligible for public assistance. For information about another state, contact the Department of Human Services in that state, or, for information current as of February 2005, go to <http://www.lac.org/lac/main.php?view=law&subaction=5#>

Do you receive public assistance (e.g. welfare, food stamps, SSI, etc.): YES NO

If yes, list the benefits you receive and how much you get: _____

Do you currently live, or plan to live, in a state other than Michigan: YES NO

If yes, which state: _____

▶ If you are applying for or receiving public assistance, you may be required to pass a national warrant check. If you have an open felony warrant, in this case or any other cases, or if you are in violation of a condition of probation or parole, you will be denied certain kinds of benefits, including SSI, food stamps, welfare, and subsidized housing.

Do you have any open felony warrants: YES NO

DRIVER'S LICENSE

▶ Certain drug and alcohol convictions can affect your ability to get or keep a driver's license.

Do you have a driver's license: YES NO

Do you need a driver's license for your job: YES NO

List any moving violations or traffic tickets you have had, and the date of the violation/ticket: _____

STUDENT LOANS

▶ In most cases, if you get a drug conviction while you are receiving student loans, your ability to get student loans will be suspended for at least a year.

Are you currently attending college or trade school: YES NO

If yes, what college/trade school are you/will you attend, and what are you studying:

College/Trade School: _____

Program of Study: _____

Are you receiving student loans: YES NO

Will you need student loans in the future: YES NO

SCHOOL EXPULSION

▶ If you are convicted of certain crimes, like possessing a weapon at school, committing sex crimes on school property, or arson in a school building, then you will be expelled from school. Other crimes, such as assault or bomb threats, can also result in suspension or expulsion. You may be able to petition to get back into school after a period of time has passed.

Are you in school: YES NO

If yes, School Name: _____ Grade: _____

Have you talked to school officials about your case: YES NO

MILITARY SERVICE

▶ Men age 18-26 must register with the Selective Service. Failure to register can result in denial of certain types of government loans and benefits. If you are male over 18, if you have not registered, and if you are likely to be incarcerated until after your 26th birthday, you should try to register now.

If you are male between the ages of 18-26, have you registered with the Selective Service: YES NO

If you were discharged from the military, what kind of discharge did you get: _____

PROPERTY FORFEITURE

▶ If this box is checked, you are charged with a crime that, if you are convicted, could result in the state trying to take away your property, like your home, car, or bank account.

Please list all your major assets, their value, any co-owner for each asset, and whether there is a loan or mortgage on the asset, including any automobiles, bank accounts, and real estate:

Asset	Value	Co-Owners	Loan Amount
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

► **IMPORTANT THINGS TO CONSIDER IF YOU ARE CONVICTED
AND ARE SENT TO JAIL OR PRISON**

If we are unsuccessful in securing dismissal of your criminal charges, or acquittal at a trial, and if you are convicted, and are facing jail or prison time, **please remember to make the following arrangements to avoid complications in your life if you are in jail or prison.**

CHILD CUSTODY

► If you have children, and your children are living with you, it is very important to make arrangements for your children if you are incarcerated. This is particularly true if you will be away for two years or more. Making arrangements for your children may prevent termination of your parental rights. If the other parent is available, you may want your children to live with him or her. Alternately, if you will be incarcerated for six months or less, you can sign a power of attorney to give someone the power to make decisions for your children. Power of attorney forms are available at reentry.mplp.org, under “family law.” For longer incarceration, you may need a more permanent placement for your kids, such as a guardianship, so that they do not end up in foster care. Because the best arrangement depends on your specific circumstances, you should consult a family law attorney if you are unsure what to do. If you cannot afford an attorney, contact your local legal aid office.

Have you made satisfactory arrangements for where your children will live if you are sent to jail or prison in this case: YES NO

If yes, with whom will your children live: _____

If you have custody, and if you are being sent to jail for six months or less, have you signed a power of attorney giving someone else authority over your kids if you are incarcerated: YES NO

If yes, who has the power of attorney: _____

If you have custody, and if you are being sent to prison for a longer period of time, will you give custody or guardianship to someone else while you are incarcerated: YES NO

If yes, who has custody/guardianship: _____

CHILD SUPPORT

► **If you are incarcerated and cannot make payments while in prison, you MUST file a motion to suspend child support as soon as you get locked up.** If you do not, your child support will continue to add up while you are in prison and the court is not allowed to go back to reduce it later. Self-help packets to modify your child support are available from the Friend of the Court or at reentry.mplp.org.

Are you required to pay child support: YES NO

If yes, have you filed a motion to suspend your child support while you are incarcerated: YES NO

If you owe child support, for each case, list the county where the case was filed, the case number, and the amount you need to pay:

County	Case No.	Monthly Payment Amount
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

IDENTIFICATION

- ▶ It can be very difficult to get a state ID or driver’s license once you are released from prison. It is easier to renew or replace an ID card if you have already had one.
 - If you do not have an ID, you should apply for one before you are incarcerated.
 - You should also make sure that all of your important documents—like your ID and birth certificate—are in a safe place where you can get them back once you are released.

Have you ever had a state ID or driver’s license: YES NO

If yes, what is the expiration date of your state ID or driver’s license: _____

Where is your state ID or driver’s license located now: _____

Do you have a copy of your birth certificate: YES NO

If yes, where is your birth certificate located now: _____

FIREARMS

- ▶ If you are convicted of a domestic violence offense or any felony, you cannot possess a firearm, even for hunting purposes or in your own home. If you are convicted of either a domestic violence offense or a felony, you must get rid of any firearms that you have in your home, even if you have a permit to carry a weapon.

VOTING

- ▶ You cannot vote while you are incarcerated. Once you are released, you automatically get back your right to vote.

MORE INFORMATION

For more information about the consequences of having a conviction, see *reentry.mplp.org*.

The State Bar of Michigan Justice Initiatives Division, Michigan State Bar Foundation, Grand Rapids Community Foundation, and Legal Aid of Western Michigan provided support for the development of this brochure. Funding does not necessarily reflect an endorsement of its content. This form is available online at <http://www.michbar.org/programs/criminalissues.cfm>.

SBM

STATE BAR OF MICHIGAN

MICHAEL FRANCK BUILDING
306 TOWNSEND STREET
LANSING, MI 48933-2012

www.michbar.org