

# Turning Time Into Evidence

## *A Framework for Evidence-Based Sentencing Mitigation*

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## The Window

Between the date charges are filed and the date of sentencing, there is a window. In most felony cases it runs six months to a year. In misdemeanor cases it may be shorter. But it is always there, a defined period of time during which something can happen, or nothing can happen.

Most of the time, nothing happens. The client attends a few counseling sessions. Friends and family write character letters. The attorney prepares arguments about the circumstances of the offense. And then everyone walks into the sentencing hearing hoping the judge will be sympathetic.

That approach has a fundamental problem. It is not a plan. It is a hope.

*The window is the most valuable strategic asset in your client's case. What happens inside it determines what you can argue at sentencing.*

## What Courts Actually Need

Judges make sentencing decisions under significant uncertainty. They are being asked to predict future behavior based on past conduct. They know the offense. They often know something about the defendant's history. What they rarely have is a systematic answer to the question that matters most: what is this person's actual risk, what drove the behavior that brought them here, and what has been done about it?

A character letter does not answer those questions. It testifies to likability. It tells the court that people who care about the defendant believe he is a good person. That may be true. It is not evidence.

What courts can rely on is different in kind. It is documented. It is systematic. It is grounded in validated screening instruments that courts and corrections professionals already use. It is supplemented by a proprietary structured interview that surfaces what those instruments are not designed to reach. Together, they identify specific risk factors, address them through a structured action plan, and produce a record of what the defendant actually did during the window - not what people hope he will do in the future.

Courts do not sentence stories. They sentence people. The question is whether the record before the court gives the judge enough to sentence this person with precision rather than hope.

## **What the Record Doesn't Show**

The Sentencing Map<sup>SM</sup> is grounded in a straightforward observation: the record before the court rarely tells the whole story. Something went wrong in the direction of a person's life - through trauma, addiction, circumstances, and habits formed over years in the wrong environment - and that story is almost never in the file.

That distinction matters for sentencing. A defendant whose criminal behavior is driven by unaddressed substance dependence, unidentified trauma, and a social environment that offered no other model is not the same sentencing problem as a defendant who acted from deliberate calculation. The sentence that fits one does not fit the other. And the mitigation argument that reaches a judge must be built on an accurate understanding of which problem is actually in front of the court.

This is what a systematic screening battery does. The ACEs framework documents adverse childhood experiences and their relationship to adult health and behavioral outcomes. The GAIN-SS identifies co-occurring substance use and mental health concerns. The SASSI-4 identifies the probability of a substance use disorder. Together, these validated instruments produce an accurate, evidence-based picture of the factors driving the behavior. The Early Sentencing Triage - a proprietary structured interview protocol - surfaces the criminogenic needs and responsivity barriers that validated instruments are not designed to reach: thinking patterns, antisocial associations, and the attitudes and environment that shaped the direction of a person's life. Together they provide the foundation for a mitigation narrative the court can evaluate, understand, and trust.

# The Three Things a Sentencing Mitigation Record Provides

## An accurate assessment

Before the window closes, your client is assessed using validated screening instruments. The results identify the specific risk factors driving the behavior, the barriers to change that supervision and treatment need to address, and the strengths and prosocial elements that a well-designed sentence can build on. In fact, they begin to reveal the story behind the offense.

## A structured action plan

The assessment produces a Mitigation Action Plan, a documented set of steps your client takes during the window to address identified needs. Treatment engagement. Support system development. Community service. Documentation of stability. These are not performed for the court. They are completed before the client walks into the courtroom, and the record of completion is what you present.

## A documented record of change

The difference between a character letter and a sentencing mitigation record is the difference between testimony and evidence. A character letter says your client is a good person who deserves a chance. A mitigation record documents what your client did with the chance the window provided. One asks the court to take a risk. The other gives the court a basis for a decision.

*The goal is not a better argument at sentencing. The goal is a client who arrives at sentencing with something the court can rely on, documented evidence of change, a systematic explanation of what drove the behavior, and a plan the judge can trust.*

## Why Timing Is Everything

The earlier the referral, the more the window can produce. A client referred the week before sentencing can receive a screening and a report. A client referred the day charges are filed has six months to a year to build a documented record of change, to complete treatment, demonstrate stability, engage with community, and show the court not what they intend to do but what they have already done.

That distinction matters enormously at the plea negotiation table. A Brief Screening Report delivered six months before disposition gives the prosecutor something to respond to. It opens a conversation about resolution that a character letter never could. It frames your client not as a sympathetic defendant asking for mercy but as someone who identified the problem, addressed it systematically, and can document the results.

The window does not stay open. Every day that passes without action leaves less room to do the work that changes what is possible at sentencing. The question is not whether to do this work. It is whether there is still enough time to do it before the window closes.

A stronger mitigation record may support treatment-based resolutions, alternatives to incarceration, reduced periods of confinement, or other sentencing outcomes that would be difficult to justify without documented evidence of change.

## **About the Sentencing Map<sup>SM</sup>**

The Sentencing Map<sup>SM</sup> is a structured sentencing mitigation service for Missouri criminal defense attorneys. Each engagement begins with a screening appointment in which validated instruments are administered and a structured interview is conducted. The results produce a Brief Screening Report containing the screening findings, a Mitigation Action Plan, and a mitigation narrative, delivered to the referring attorney within two business days.

Your client then works through a structured mitigation workbook, gathers supporting documentation, and builds the record of change the court will evaluate at sentencing. For cases that proceed to a contested sentencing hearing, the Sentencing Map<sup>SM</sup> serves as the foundation for a full Felony Sentencing Report. A standalone DWI Report is also available for misdemeanor and municipal DWI cases.

To discuss a case, call (417) 831-5299 or email [souder@bardlegal.com](mailto:souder@bardlegal.com).