



Engineering Sentence Mitigation Strategies



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Other Books by
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Earning Freedom:
Conquering a 45-Year Prison Term
(Shows strategies to build strength and discipline through long term)

Prison! My 8,344th Day
(Shows strategies to be productive through a single day in prison)

Triumph! The Straight-A Guide
Preparing Prisoners for Reentry
(Shows strategies to serve time productively)

Success After Prison
How I Built Assets Worth \$1,000,000
After Being Released from Prison
(Shows outcomes for people who use time in prison to prepare for success)

Ten Steps to Prepare for Success
from Jail or Prison
(Self-directed course to help people in jail or prison)

Inside: Life Behind Bars in America
St. Martin's Press
(Insight to high-security prisons in America)

Lessons on Personal Leadership with Bill McGlashan
(Self-directed course to help people in jail or prison)

Personal Leadership Lessons from Mossimo Giannulli
(Self-directed course to help people in jail or prison)

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Straight-A Guide Mitigation Workbook

Introduction: 4

Goals: 17

Attitude: 27

Case Study: 41

Aspiration: 52

Action: 64

Accountability: 75

Awareness: 87

Achievement: 96

Authenticity: 105

Wrapping Up: 115

Appendix: 117

Straight-A Guide Mitigation Strategy: An Introduction

Our entire team at Prison Professors welcomes participants to our Straight-A Guide Mitigation course. We based this self-directed course on everything our team members learned from:

Working with federal judges, federal prosecutors, and federal probation officers;
Our personal experience of working with thousands of people who have had to prepare for sentencing; and
A collective 50 years of lived experience in prisons of every security level.

Participants should use this resource as a guide, not an answer sheet. An effective mitigation strategy requires good storytelling. Ultimately, mitigation work reveals the individual nuances of a person's life. It shares details disclosing how and why the person got into this challenge and lessons they learned from the experience. Therefore, boilerplate content will not suffice.

The mitigation strategy must show that the person identifies with the victim's loss. If you're working through these lessons, consider the Judge's perspective:

- » What has the Judge heard before?
- » What makes you worthy of leniency?

We understand course participants may not have the resources to hire a mitigation expert. Still, building a persuasive case for mercy is an important step at sentencing.

Our team members know how to improve outcomes for people facing the criminal justice system. In this initial lesson, we'll offer:

- » The history of our Program.
- » Information on why we believe the Program can help you.
- » Insights on what we've learned by working with stakeholders at every level.

Readers already familiar with our personal stories should feel free to begin now. For more insight, please visit our comprehensive website at PrisonProfessors.com, where we feature profiles on these contributors:

- » Mike Berlon: Former lawyer; served five years for white collar crime.
- » Wayne Boatwright: Cornell Law School grad; former lawyer, served six years.
- » Lawrence Hartman: Columbia Law School grad; served a 10-year sentence for white collar crime.
- » Sam Mangel: Wharton Business School; served a five-year sentence for white collar crime.
- » Justin Paperny: USC grad; former stockbroker, served 18 months for white collar crime.

Background:

My name is Michael Santos. As a young man, I made a series of bad decisions that led to a government investigation. Then, a prosecutor convened a grand jury, and I faced charges that exposed me to life in prison. Despite my guilt, I went through trial. A jury convicted me, and a judge sentenced me to serve 45 years.

While serving decades in federal prison, I committed to reconciling with society for the bad decisions of my youth. Anyone with an interest in my journey may read about it in this book:

Earning Freedom: Conquering a 45-Year Sentence

- » Download a free digital or audio version from our website at PrisonProfessors.com.

Since concluding my prison term in 2013, I've worked with our team members to improve outcomes for system-impacted people. Through Prison Professors and our related entities, we advocate and contribute in ways that include:

Judicial conferences retain our team members to present and speak about what happens after a judge imposes a sentence.

Legislative aides retain us to consider and comment on how different policies may influence the criminal justice system.

Leaders of prison systems invite our partners to serve as keynote speakers, advisors, or program creators.

Law firms and individuals retain us to collaborate on building mitigation strategies.

Through our nonprofit, we create daily content to improve outcomes for people at every stage of the criminal justice system.

We've developed insights by working, presenting, and consulting with the criminal justice system leaders that benefit people who face challenges from civil or criminal law enforcement.

All defendants will need legal representation. Neither our team nor our services replace the need for a criminal defense attorney. We are not lawyers and we do not give legal advice. Still, experience convinces us that defendants should think independently about what steps they can take to influence the process. Developing an effective mitigation plan requires:

- » Preparing for the presentence investigation report and considering how to influence the process.
- » Preparing for the sentencing hearing and how to make a favorable impact on the Judge.
- » Preparing for the sanction and considering how to influence the best possible experience in dealing with the sanction, whether prison or an alternative sentence.
- » Preparing for the challenges that will accompany post-release supervision.
- » Preparing early for the eventual request to terminate post-release supervision.
- » Preparing to resume a life of meaning and relevance after government supervision ends.

We possess a great deal of knowledge about steps defendants can take to put themselves on a course for the best possible outcome. When criminal justice leaders retain our team members to develop and refine programs, we benefit from

having one-on-one conversations with them. Lessons we've learned from those stakeholders form the basis of our Sentence Mitigation Program.

Our programs teach strategies to influence stakeholders. We share what we've learned whether course participants become clients or use the free content we publish through PrisonProfessors.com, our app, or our social media channels.

We urge participants to understand that stakeholders want people who have been charged with a crime to work toward reconciling with society. Judges and prosecutors want to make communities safer. The punishments they dispense are impersonal. Instead, their decisions reveal stakeholders' thoughts on whether a person deserves greater or lesser punishment.

No one can change the past, but it is possible to make decisions that influence present and future outcomes. The first step in a mitigation effort is introspection. The individual must reflect deeply on their behaviors and examine the thoughts and feelings that arise. Introspect on the following question:

What steps can I take today—given past circumstances—to influence the outcome I want?

A mitigation effort should demonstrate a 100% commitment to building a case that answers the question above.

Proof:

Stakeholders have spoken publicly about our Straight-A Guide Mitigation Program. They find it helpful as a resource in determining whether a candidate is worthy of a downward departure at sentencing.

We encourage participants to subscribe to the Prison Professors YouTube channel or our podcasts. More than 1,000 video and audio files validate what we've learned from our work with government officials that play an active role in the criminal justice system. We've gained insight into what judicial and law-enforcement stakeholders want to hear from a defendant before sentencing. Participants will see our work with:

- » Prosecutors,
- » Probation officers,
- » Sentencing judges, and
- » Prison officials.

Effective mitigation, however, requires much more than talk. It requires participants to demonstrate indisputable patterns of authenticity, as we'll show in later lessons.

What Does the Judge Know?

Defendants should begin mitigation efforts by understanding that the only information a judge has about them is what various people have presented in Court. Prosecutors make allegations based on what they learned from investigators. Prosecutors do not have personal relationships with defendants.

- » Prosecutors may not know much other than what they've learned about the offense.
- » Defense attorneys will have made statements.
- » The Judge may have heard from victims, or he may have considered other evidence.

A mitigation strategy must factor in the role of every stakeholder and help them see the defendant for more than simply the criminal behavior.

For now, we'll focus on the Judge.

- » What does the Judge know about the defendant?
- » What will differentiate one defendant from another?

Many defendants mistakenly limit their mitigation strategy, saying only:

- » "I'm sorry for what I've done."

Judges we interviewed told us that hearing "*I'm sorry*" from defendants isn't enough to move them. They want to know how much work the defendant put into

showing remorse. A solid mitigation effort must persuade the Judge to recognize a defendant's work as authentic and meaningful. Otherwise, the Judge may infer that the defendant is simply trying to provide a canned answer or boilerplate message.

Consider an analogy from a grade school math class—one of the dreadful word problems that confuse so many youngsters:

A factory manufactured three kinds of chocolate bars—creamy, milky, and white. Out of 4,250 bars of chocolate, there were 715 more white chocolate bars than milky chocolate bars. The number of creamy chocolate bars was five times the number of milky chocolate bars. How many creamy chocolate bars did the factory make?

Suppose a student wrote the correct answer (2,52) in the answer box. In that case, the teacher might not give the student full credit without seeing the student's work—the calculations used to find the answer.

In other words, teachers want to see work that shows them a student understands the problem and can show the steps required to solve it.

As the teacher does with students, a judge wants to see a defendant's mitigation work.

We offer this insight to participants working through this course because many people will judge you in the future. Unfortunately, they may read accusations against you that result in a biased view of your life. Consider the following examples:

- » An FBI agent, an agent from the Criminal Investigation Division of the IRS, a DEA agent, or some other investigative agency, responds to a complaint of criminal wrongdoing.
- » Would that investigator think about you as a blank slate?
- » Does the investigator begin with the presumption of innocence?
- » Does the investigator consider the good that a defendant has done in society?

The investigator creates a report for a prosecutor. In that report, the investigator collaborates with a prosecutor to show an alleged crime. Then, the prosecutor begins to architect a plan.

- » Does the prosecutor care about how the charge will influence the life or career of the defendant?
- » What thoughts will a prosecutor have about the defendant's family?
- » What does the prosecutor want more: justice or a conviction?
- » What level of energy will the prosecutor invest in showing fact finders that—despite the criminal charge—the defendant has done a lot of good for the community?

Defense attorneys focus on exonerating defendants. They look for case law and other arguments to sow seeds of doubt against the charges. Or defense attorneys may craft strategies to minimize defendants' exposures to severe sanctions.

- » How many hours will defense attorneys invest in a case?
- » Will defense attorneys devote those hours to master the facts, laws, and rules of evidence or learn defendants' personal characteristics?
- » If defense attorneys focus on the facts of the crime, how will stakeholders know anything about the defendant?

Judges want defendants to reveal personal information that will not come from criminal investigators, prosecutors, or defense attorneys. From our work as policy advisors, we know that judges give a lot of thought to sentencing. Yet from talking with them, we also know that judges want more information. They want to know why the defendant is worthy of mercy.

Judges also told us that defendants come to Court woefully unprepared to support a request for leniency, offering lip-service remorse, or boilerplate explanations, such as:

- » I'm sorry for what I did.
- » Please forgive me.
- » I'm going to miss my kids and family.
- » Since my arrest, God has shown me the way.

» Please give me a low sentence.

Such generic statements may be sincere. But, without insight into the defendant's personal story, Judges only know about the criminal charges.

An effective mitigation strategy must provide the Judge with a solid understanding of how the defendant has grown from this experience. A defendant should respond with more than the end-page result. The defendant must *show the work* he put in to get there. Defendants receive better outcomes by *showing why* they're worthy of mercy.

Every defendant says he is sorry. Every defendant asks for a lower sentence. The challenge is building a systemic pathway for a judge to grant mercy. A defendant's responses to the following questions represent the core of any effective mitigation strategy:

- » What has the defendant learned from this experience?
- » In what ways has the defendant identified with victims?
- » What steps has the defendant taken to make things right?
- » Why can we be sure the defendant will not come into the criminal justice system again?
- » Why should the Court show mercy on this defendant?

Our many published interviews show we've built a solid team capable of designing and deploying an effective mitigation strategy. Our work appears on several websites, including PrisonProfessors.com and WhiteCollarAdvice.com. In addition, law-enforcement professionals endorse and purchase our Programs because:

They want more people who go through the system to emerge successfully as law-abiding, contributing citizens.

Authenticity:

Our team never asks, suggests, or recommends that anyone do anything that we, ourselves, did not do. Each member of our team at Prison Professors lives by the lessons we present in this Program. Since we know what it takes to prepare

for the best possible outcome, we recommend the work to our clients. Yet, every person is different. When assigning our Straight-A Guide Mitigation Program, we consider differentiators:

- » Some people did not finish high school. Others hold advanced degrees.
- » Some people struggle with financial resources. Others have an abundance of financial resources.
- » Some people face charges for crimes that include violence. Others face charges for white-collar crimes.
- » Some people do not have a criminal history. Others have faced sentencing hearings in the past.
- » Some people have experienced significant trauma that may have influenced actions that led to the criminal charge. Others have childhood experiences that may mitigate their sentence.

With those differentiators in mind, we do not offer a boilerplate mitigation program. Every individual has a unique story. To get on track for the best possible outcome, a person must build a case for mercy. Stakeholders may be cynical, including:

- » Investigators on the case.
- » The Probation Officer who will write the Presentence Investigation Report.
- » The Judge who will impose the sentence.
- » The prison officials that will determine placement, or custody-and-classification categories.
- » The prison officials that will determine whether a person qualifies for early-release programs.
- » The Probation Officer who will assign levels of liberty in the future.
- » The Judge who will determine whether the person is suitable for early termination of Supervised Release.

Our mitigation course considers each of those stakeholders. For that reason, we encourage participants to learn about the history of the Straight-A Guide and about our team at PrisonProfessors.com. We recommend that participants read the following books as a primer:

Earning Freedom: Conquering a 45-Year Prison Term

- » This book includes the origin of our Program and why it's essential to visualize the best possible outcome. It shows how leading a values-based, goal-oriented life can sow seeds for reconciliation with society. The book also provides insight into sustaining a high level of discipline and energy while growing through struggle.

Prison: My 8,344th Day

- » This book shows how daily decisions demonstrate a commitment to success through prison and beyond.

Success After Prison: How I Built Assets Worth \$1,000,000 Within Two Years of Release After 26 Years in Prison (And How You Can Succeed, Too!)

- » This book shows the result of values-based, goal-oriented decisions. The strategies we teach do more than lead people through prison. Those strategies also put people on a path to success on the other side of the journey.

We recommend this reading list for a purpose. We want participants to begin with a solid foundation on the principles behind our Straight-A Guide Mitigation Program and see how it works. The books reveal the purpose behind each task that we suggest our participants complete.

Those with a solid understanding of our Straight-A Guide Mitigation Program should begin working through the ten modules. When responding to questions, please keep all stakeholders in mind. A well-documented journey shows stakeholders why a successful participant is worthy of the best possible outcome.

Participants who worked with our team members on a personal narrative should know how to work through the modules. Narrative reports always include an abbreviated version of introspection. Introspection—deep personal reflection—is the start of any mitigation effort. The remainder of the Program is much more comprehensive.

Values:

Our Program begins with a complete understanding of values. Next, the books we recommend show what it means to define success.

A mitigation effort begins with a clear understanding of the best possible outcome. All participants would like to turn back the clock and make different decisions. From the crosshairs of the criminal justice system, who doesn't want to change the past?

But we can't.

We must live in the world as it exists—not as we would like it to be. We must define success as the best possible outcome.

What is it?

The *Earning Freedom* story shows how essential it is to change our thinking. Instead of thinking of our problems, we must think about the people we'll encounter in the future.

- » Who are those people?
- » How do our past decisions influence the way those people will judge us?
- » What steps can we take today to influence how those people will judge us?

These questions help develop a clear definition of success. If we know the different ways in which we want to define future success, we can begin to craft a workable plan. Of course, we cannot undo our past decisions. But if we're on this pathway to success, we can show how we're charting a course to reconcile with society. We can show how our decisions today will keep us out of the criminal justice system in the future.

In the end, we should create a mitigation document that reflects our authentic commitment to success. The record must show that we're honest and that we've been honest with the people we anticipate meeting in the future. We must show that we're not thinking about personal problems as we make decisions. Instead, we're thinking about the people we want to influence in our future.

- » What is the Judge thinking about me today?
- » What does the Judge know about my commitment to living a law-abiding life?
- » How can I persuade a judge that I've given a great deal of thought to the influences that led to my criminal conviction?

Answering those questions requires a great deal of thinking about how we got into the predicament we're in today. The books that we listed above show our team's approach.

But this mitigation effort isn't about our team.

This Program shows participants the work involved in building a case for mercy, persuading a judge, and others because of how hard they're working to build a better future.

Think of the following exercise as a first step that shows you're taking a methodical, deliberate path to prepare for success. It is an accelerator that will bring new levels of success to your life. You'll also find that you can begin rebuilding your life using the deliberate process.

Task: See yourself from the perspective of others. Please write your responses to the following questions with that end in mind.

- » Who are the victims of my crime?
- » What role did I play in this crime?
- » How did I get involved in this offense?
- » What did I think when I made decisions and acted in ways that exposed me to these charges?
- » What am I striving to accomplish by working through this exercise?

You're about to make the biggest sale of your life: influencing the judgment of others you will meet in the future. As of right now, those people may be biased. They may judge you by decisions made at the worst time in your life. Through your work in this program, you can architect a plan to reconcile with society that shows:

You visualized the best possible outcome.

- » You crafted a plan to get from where you are to where you want to go.
- » You put priorities in place.
- » You executed your plan every day.

This plan is the essence of our Straight-A Guide Mitigation Program. You must do the work, and you can rely upon our team to guide you along the way.

We recommend making the following pledge as you begin:

- » *I am beginning my process to show why I'm worthy of the lowest possible sentence. The strategy requires that I give considerable thought to the challenges I face with the criminal justice system. Rather than my problems, I want to reflect on how my actions influenced others in our community. It's an ongoing investment in introspection. I'm showing my commitment to this path by responding to questions in the 10-part course.*

Values Module:

Start with the following mantra, then answer each question below:

- » *Instead of thinking about myself, I'm thinking about others and how others define me today. My responses will influence how stakeholders perceive me at various stages in the future:*
1. How do the people that investigated my crime view me?
 2. With the evidence prosecutors have seen, what do they think about me as a human being?
 3. What thoughts do my victims have about me?
 4. How have my actions influenced the lives of others?
 5. In what ways have my actions influenced the community where I live?
 6. What steps can I take today to reconcile with society and make things right?
 7. What does the Judge think about my character as a human being with the information they have from prosecutors?
 8. What do others know about the influences that led to where I am right now?

9. If others knew more about the influences in my life, how would they perceive me?
10. Given my past decisions, what is the best possible outcome for my life in the months, years, and decades ahead?

2. Straight-A Guide Goals

Our team at Prison Professors strives to teach people how to advocate for themselves if they're going through any stage of the criminal justice system. We want them to learn techniques that will lead to the lowest possible sentence, and to liberty at the soonest possible time. When they emerge from prison, we want them to reacclimate to society, ready to function with their dignity intact.

In the first module, we emphasized the importance of defining success. Your definition of success will articulate the values by which you profess to live. But identifying your values is only a first step. Remember that we must show our work. We must show the deliberate steps we're taking to become the success that we want to become. And we're always thinking about the people that we want to influence in our future.

- » Who are the people that will make decisions concerning my liberty?
- » How will those people influence prospects for my best possible outcome?
- » What steps can I take to influence their decisions in a favorable way?

Each of our mitigation experts have gone through government investigations, criminal prosecutions, sanctions that include prison or community-based sentences that did not include prison. Our experiences convince us that people can engineer pathways that will advance prospects for mercy.

People facing criminal charges should not minimize the importance of crafting an effective and comprehensive mitigation strategy. The defense attorney cannot accomplish this task. Each person must build a personal story to persuade stakeholders why the person is an ideal candidate for leniency.

- » What makes you different from every other person that stands before a judge asking for mercy?

When our team members work with individuals that want to position themselves for leniency, we encourage them to begin by identifying values. Defining success is a prerequisite to the mitigation effort. The next prerequisite includes the clearly defined goals that each person must set.

Think about how these two prerequisites of identifying values and setting goals can influence the outcome you want to create. Satisfying both prerequisites is essential to starting down the Prison Professors' Straight-A Guide, mitigation strategy.

Driver's License:

To illustrate the importance of prerequisites, we draw attention to the process of obtaining a driver's license. Think back to when you first got your driver's license. Before you could receive your driver's license, the state required you to complete some prerequisites.

In some cases, you had to go through a class.

You had to take a written exam to show that you knew the rules of the road.

Then you had to take a driving exam—showing that you knew how to drive.

By advancing through your prerequisites, the state issued your driver's license.

Similarly, crafting an effective mitigation strategy requires the same work through prerequisites. First you need to advance through the values module. The values module should show your work.

By responding to the questions in the previous lesson, you show that you've taken deliberate steps to identify the best possible outcome. You've introspected. You've reflected on all the decisions in your life. Those decisions influenced choices you made along the way.

This strategy helps your judge consider more than only the crime or conviction. The crime isn't the only factor at sentencing. Your judge and others will consider your life in its entirety. There were many steps along the way that influenced what and who you became. Similarly, there will be many steps in your future that will influence who and what you become.

A judge will want to know how much thought you've invested into this process. To the extent that you can show how much work you've done, you can influence how that judge perceives you. You can overcome biases. Your work will show that you're more than the criminal charge.

The values show how you define success. The goals you set will show that you're doing more than simply defining success. You're also contemplating a pathway, showing that you're more than "happy talk." A good mitigation strategy will show that you're working toward becoming the person you want to become.

» What does that mean?

Again, we offer an analogy.

Your Mitigation Strategy is Your Personal Development Plan:

Think of a building project. Drive by any construction site at the earliest stage.

» What do you see?

- ◇ You may see excavators.
- ◇ You may see pipes that contractors will install underground.
- ◇ You may see lumber and blocks and steel.

No one will see those building materials at the conclusion of the project. Just like no one can see all the work that went into the project before there was any construction site.

To create a result, a developer had to architect a plan. A developer had to visualize the building he wanted to create. He had to craft a plan and set many small

goals along the way. He had to execute his plan flawlessly. Consider some of the smaller individual goals that go into a development process:

- » A developer identifies a market need.
- » A developer does some calculations to determine the revenues that a building could potentially generate.
- » A developer completes further calculations to determine how much it will cost to produce a building.
- » A developer writes all these factors out and makes a persuasive presentation to prospective investors or lenders.
- » A developer secures the financing that will lead to the project's completion.
- » A developer then executes the plan.

All those individual goals take place before anyone sees any building materials. And once the developer completes the project, no one will see the building materials that were necessary along the way.

Mitigation Efforts:

Effectively, a mitigation effort uses the same model as a builder uses to develop a real estate project. But we're not striving to persuade lenders or investors to buy into the structure we want to build. We're striving to persuade prosecutors and judges. Expect them to be cynical. We want them to see us for the people we say we can become. We're developing ourselves and we want those who judge us to believe.

Our exercise on values may help to persuade judges that we're growing from this experience. We can show that we're giving considerable amounts of thought to what we've done. Our investment in writing out our values helps us show that we're visualizing the best possible outcome. We're defining success. We can help judges see that we're worthy of mercy. That's what our exercise on values accomplished. With our goals exercise, we will show the specific building blocks. To remain consistent with the principles of our program, we'll offer an example from one of our books that we recommended in the first module:

- » *Success After Prison: How I Built Assets Worth \$1,000,000 Within Two*

Years of Release From 26 Years in Prison (And How You Can Succeed, Too!)

In *Success After Prison*, I wrote that I wanted to share the strategies that empowered me through 26 years in prison. I wrote that many people who needed his work would be cynical. They were in struggle, going through a criminal prosecution or a prison term. To persuade them of the validity of our Straight-A Guide Program, I wrote that I would need to document success. And building financial resources could be one way to define success.

As I drove with my wife from the federal prison in Atwater to the halfway house in San Francisco, Carole used her iPhone to log into the Credit Karma app. She showed me that I had a zero-zero-zero credit score. I told her that in spite of that credit score, I would become successful. Despite the non-existent credit score, I told her that within five years I would control \$1,000,000 worth of assets. To achieve that goal, I would use the same principles of the Straight-A Guide that powered me through 26 years in prison.

- » I visualized success as building assets worth \$1,000,000 within five years of my release date: August 13, 2018.
- » I created a plan that would deliver me from being non-existent in the credit world to achieving his success within five years.
- » I put priorities in place, understanding that success comes with one step at a time.
- » I executed the plan each day.

In the rest of our book, readers will see how identifying values and setting clear goals allow people to exceed the goals they set.

The tiny, step-by-step goals that I set persuaded others to believe in me. The values and goals persuaded others to see me for what I could become. The fact that I was in prison for 26 years didn't matter. Instead, I persuaded others to see me differently.

Those were the same strategies that I used to get through prison.

To advance your mitigation effort, we need you to set clear goals. Those clear goals must show your commitment to the values by which you profess to live.

What are those values that you clearly defined as being consistent with the best possible outcome in your life?

- » What clear goals can you set to show your commitment to those values?
- » Will achieving those clear goals make your commitment to the values self-evident?

Rely upon this strategy of defining success and setting goals to craft your own mitigation efforts. If you've taken a step to identify your values, the next step will be to write out the clear goals. Those clear goals will reflect your commitment to the values. Your goals should show the judge how much thought you've put into becoming the person that you say you're going to become.

SMART Goals:

When you're writing your goals, we encourage you to follow the principle of SMART goals. People in your future will assess whether you're authentic or not. Your ability to tell your story will influence how people assess you. Are you telling a believable story? By setting SMART goals, you can tell a more convincing story. And if you tell a more convincing story, you can influence how people see or perceive you.

Follow along to learn the principles of a SMART goal:

- » S: You should make each goal specific.
- » M: You should measure progress toward the completion of each goal.
- » A: You should set goals that require action.
- » R: You should show why your goals are realistic.
- » T: You should set clear timelines to complete your goals.

By identifying the SMART goals that you set, you can show your judge that you're not simply speaking about values. Instead, you're working toward success as you've engineered success. And remember that success for one person does

not have to mirror or match how another person defines success. We define success with the values we've set. Our goals show our commitment to those values.

Your mitigation effort should include very specific goals that adhere to the SMART principles above. When setting those goals, think about the people you want to influence with your mitigation effort. You may want to influence the following people:

- » A federal judge who wants to know why you're worthy of a downward departure and mercy at sentencing.
- » A prosecutor who likely will object to requests for mercy or leniency.
- » A probation officer who likely will parrot the prosecutor's version of events.
- » A defense attorney will make a sentencing argument.
- » Various prison officials who will determine whether you qualify for programs that can advance your release date.
- » Officials in a halfway house who will determine what type of liberty you can have to work.
- » A probation officer who will determine how much liberty you can have in your future, when you're on Supervised Release.
- » A federal judge who may determine whether you're worthy of relief at some point in your future.
- » Prospective employers who may consider hiring you.
- » Prospective creditors who may consider doing business with you.

It would be a mistake to think that a mitigation effort only influences the sentencing hearing. Unfortunately, the criminal justice system has far-reaching consequences. Ramifications begin before the judge imposes a sentence. In many cases, those ramifications extend long after the person serves a sentence. For that reason, our team at Prison Professors recommends that all people invest themselves fully in a mitigation effort.

As we stated earlier, an effective mitigation effort begins with prerequisites. Those prerequisites start with the following:

- » Identify success with values,
- » Set SMART goals that reflect a commitment to success, as defined by values.

Marshall Goldsmith, a business professor and executive coach, taught many lessons that validate the importance of this strategy. Essentially, the title from one of professor Goldsmith's book summarizes this lesson:

» *What Got You Here Won't Get You There*

Basically, Professor Goldsmith helps us realize that we neither fail nor succeed in one step. Both success and failure materialize from a series of small, incremental decisions and actions. Our goal-setting strategy should reflect this reality. We must show decision makers in our future that we've thought through our plan. We must show the efforts we're making toward preparing for a law-abiding, contributing life.

That means we must give considerable thought to how our decisions come with opportunity costs. A SWOT analysis can help with the goals that we set in our mitigation effort. With a SWOT analysis, we consider strengths, weaknesses, opportunities, and threats.

We must consider what strengths we have today.

- » How can we use our strengths to overcome challenges we're going to face in the future?
- » We must consider our weaknesses.
- » In what ways will our weaknesses influence ability to overcome challenges that we're going to face in the future?
- » We must open our eyes to opportunities.
- » What opportunities do we have available to us now that will advance our prospects for a successful outcome?

We must be alert to threats.

- » What types of decisions can threaten my prospects for success, as I've defined success with my values?

In your mitigation effort, show the judge how much thought you've put into the plan that you're creating. Remember our motto at ResilientCourses.com:

- » Visualize success.
- » Create a plan.
- » Set priorities.
- » Execute the plan.

In your mitigation package, do your best to show that you understand this concept. From our perspective, the right decision at the wrong time is the wrong decision.

What does that mean?

It means that in your mitigation package, you must convince your judge that you're making the right decisions at the right time. In other words, set priorities. Without setting priorities, you threaten prospects for success. A well-thought-out strategy will influence your judge. It will show your level of commitment to the plan. The stronger the plan, the more likely you will persuade a possibly cynical judge that you can succeed.

Judges have frequently told us how defendants can hurt their prospects for leniency at sentencing. If a defendant doesn't know how to set priorities, the judges have said, they do not believe that the defendant has given adequate thought to his problems. When defendants talk about saving the world, or saving other people, or doing anything like that, they will not serve themselves well—unless the defendant has built a plausible case that could support such a statement.

Judges have told us:

- » I don't want to hear a defendant talking about how he is going to save others. Before he can save others, the defendant had better show me that he knows how to heal the harm that he has caused. He had better show me that he can heal his own thinking that led to his problem.

In our book *Earning Freedom*, I described how Socrates influenced my definition of success. I understood that, ultimately, my judge would impose my sentence. Regardless of what sentence the judge imposed, I intended to return to society unscathed by the experience. I intended to be able to walk into any room without

concern of others judging him. To succeed, I defined the values and goals that would guide my adjustment:

Values:

- » Education: I professed to work toward earning educational credentials.
- » Contribution: I professed that I would work to contribute to society.
- » Network: I professed that I would develop relationships with mentors who could guide me.

The goals that I set matched the values above. Those goals were SMART, as defined below:

Goals:

- » Within 10 years, I pledged to earn a university degree.
- » Within 10 years, I pledged to become a published author.
- » Within 10 years, I pledged to bring 10 mentors into my life.

Our team at Prison Professors encourages people to advance through the prerequisites of our Straight-A Guide Mitigation Program. If you're working through this course, that means we expect you to identify the values that define your life. Then you must set the goals that will make your commitment to the values self-evident.

We encourage you to align your values and goals together. Then, we encourage you to continue with the Straight-A Guide Program. Some questions may prompt you as you prepare your mitigation package:

1. In what ways do the goals that you're setting reflect your commitment to the values by which you profess to live?
2. How will the goals you're setting today influence your life in five years?
3. In what ways will the goals that I'm setting today position me to achieve new goals in the future?
4. In what ways do the goals that I'm setting today reflect my commitment to reconciling with society?

5. How do the goals that I'm setting today show that I am working to make things right with the victims of my crime?
6. How will I measure progress toward the goals that I'm setting?
7. Why have I learned about myself that puts me in a better position to achieve the goals that I've set for my future?
8. Why will working toward the goals that I've set make me into a better citizen?
9. In what ways will achieving the goals I'm setting show my commitment to living as a law-abiding, contributing citizen?
10. Why do the goals that I'm setting advance my request for mercy at sentencing?

3. Straight-A Guide Attitude

To pursue anything of value, a person must begin with the right attitude.

How would we know whether a person has the right attitude? It's simple. A person who has the right attitude makes a 100% commitment to success—consistent with his or her values and goals.

In all of the Prison Professors' Straight-A Guide programs, we write that success begins with attitude. It's not necessarily our lesson. Rather, it's what we've observed from leadership at every level of society. People that get better outcomes generally start with the right attitude—an attitude that is consistent with Henry Ford's manta:

- » There are two types of people in the world. Those who think they can, and those who think they can't. Both are right.

If you're working through this course, we're hoping that you've got the right attitude. In the first two lessons, you've given thought to defining success, and to the clear goals you must pursue.

As we've expressed earlier, a mitigation effort cannot be a boilerplate solution. Each case must reflect the unique characteristics of the individual. For a defen-

dant to persuade a sentencing judge that he or she is worthy of leniency, the defendant must build a solid case that shows how much thought the defendant has put into the effort. If successful, the mitigation effort may convince the judge that a lower sentence is just.

Consider the Straight-A Guide as a tool rather than an answer sheet. It's like a compass to help participants advance through the journey. Do not mistake the guide as being anything more than a tool. Without doing the work, no one can make the type of compelling case that will influence a judge's sentence.

Further, as people that have gone through government investigations, sentencing hearings, and terms of supervised release, we know that mitigation has many different stages. Certainly, it's best to work toward the lowest possible sentence. Yet regardless of what sentence a judge imposes, a person must think about mitigation efforts going forward.

It's never too early, and it's never too late to sow seeds that will lead to a better outcome.

Stakeholder Perspectives:

Every defendant should anticipate the work that a prosecutor will invest into the case. In our experience, if a prosecutor has brought a case, that prosecutor will go all in toward securing a conviction and a lengthy sentence.

Prosecutors measure their performance with convictions. Convictions stand out when judges impose tough sentences. For that reason, every defendant should anticipate that DOJ prosecutors will build a solid case for a lengthy sentence. Indeed, the former Attorney General Jeff Sessions issued a memorandum mandating that prosecutors put every effort in proving the most serious charge possible. They want a severe sentence.

Although defense attorneys will do their best to counter the prosecutor's arguments, defendants can serve themselves well when they show that they've introspected. If they can identify what they've learned from the predicament, and what steps they're taking to make things right, they stand a better chance for mercy.

» How much work are you willing to put in to influence the judge?

If you use our Straight-A Guide tool effectively, we're convinced that you can really move the needle. Your decisions and actions can have an enormous influence on every stage of the journey. Your attorney may be able to use your mitigation strategy in the sentencing memorandum, building stronger arguments for leniency.

We've interviewed more than a dozen sentencing judges. Two of those judges had the courage to present their views on video. You can watch those videos if you visit PrisonProfessors.com, or visit our YouTube channel. Besides the two federal judges that appeared on video with us, every other judge we interviewed echoed the same sentiment:

» The work that a defendant does prior to sentencing far outweighs anything the attorney says when it comes to mitigation.

We can present an analogy from the inspiring story of Michael Dell to communicate the message we want to convey in this module effectively.

Michael Dell is the founder of Dell Computers. Many authors have written about Dell's story. He launched the Dell Computer Corporation from his dorm room when he was a freshman in college. With \$1,000, Michael Dell purchased parts and tools. He used those parts and tools to begin assembling computers. By leveraging the system that he created, he grew his business into the world's largest personal computer manufacturer.

» If we had those same \$1,000 worth of parts and tools, where would be?

As the author of this module, I can say that I wouldn't know what to do with the same parts and tools that Michael Dell used. Yet by applying a system he created, he turned those parts and tools into a company that now generates more than \$70 billion in annual revenues. If I had the same parts and tools, I would not know what to do with them.

You must know what to do with the “parts and tools” we’re providing with our Straight-A Guide Mitigation course. These are the same tools that our mitigation experts use to help people get extraordinary results at sentencing, and through the system. They invest many hours to get those results. Yet people that do not have financial resources to hire a mitigation expert can do the work themselves. We believe that our Straight-A Guide course on sentence mitigation—along with all of the other free content we publish on our Prison Professors channels—can help people who are willing to help themselves.

Your Compass:

A compass isn’t worth anything unless we use it. We created the Straight-A Guide because we’ve used this compass to overcome struggles in our life—that’s why we know that it works. Yet if you’re facing a sentencing hearing, and you don’t use the guide as a compass, you will not have anything more than words on a page.

We need to apply lessons of the Straight-A Guide if we want to build a compelling mitigation package. The questions you answer in the first lesson of this course should help you define success. Those questions reflect the values by which you profess to live.

In the second lesson, you answer more questions. Your responses to those questions show the very specific goals that you’re setting. Each goal should be specific. If you use the tool effectively, the goals you identify should have a clear start and finish date. They also should have clear measurements for success or failure. Finally, the goals should make your commitment to the values self-evident.

By articulating those values and goals, you build a more compelling case.

Always consider the judge’s perspective. The more understanding you have of the people who will judge you, the more confident you will become in your mitigation strategy. Your mitigation strategy should influence your sentencing judge, but also the other stakeholders who will judge you in the future.

Let’s start with the sentencing judge.

- » Who is your sentencing judge?
- » What is the educational background of your sentencing judge?
- » What does the career trajectory of your sentencing judge look like?
- » Which president appointed your sentencing judge and what does that say about your sentencing judge's political philosophy?

If you don't have answers to those questions, then let's make some assumptions.

All sentencing judges have a law degree. Before anyone can get a law degree, the person must go to law school. To attend law school, we know that a student must first earn an undergraduate degree. Further, the person would need to score well on the standardized Law School Aptitude Test (LSAT).

From that information, we can reverse engineer a bit further. To score well on the LSAT, a person must be a good student. To earn good grades, a person must study. For a judge, hard work and study habits likely began long before college. It's a safe bet to assume that the judge began working hard and making good decisions as a child. During high school years, the judge likely thought strategically about college. He or she knew that the decisions and grades in college could influence prospects for admission to a good graduate school or law school. Then, performance in law school would influence the career after law school.

Becoming a federal judge isn't easy. It requires an appointment from the president of the United States. So it's likely that judges thought strategically long before the appointment. Strategic thinking and hard work have been a part of the judge's character for many, many decades.

From that assumption, we can infer that your judge will likely respect people who work hard and who think strategically. Your judge will likely respect someone who thinks about the past and thinks about the future. You advance prospects for your judge to empathize with you if you can persuade the judge how hard you're working to figure things out and make things right. Put significant effort into planning your future.

Every defendant must overcome prosecutorial and judicial bias.

- » Based on what your judge knows about you, what will he think about your work ethic?
- » In what ways will the judge know anything about how much thought you put into decisions?

Consider a judge's responsibilities. Every week, the judge must preside over criminal cases. Prior to working as a judge, many judges served as prosecutors. As with any other human being, a judge's prior experiences influence perceptions. When a judge considers a defendant, the judge knows and understands that the defendant wants leniency. But if the judge had the responsibility of sentencing several separate defendants who stood convicted of similar crimes, which would be most likely to receive leniency at sentencing:

Defendant 1:

- » Defendant 1 chose to leave the entire sentencing matter in the hands of his attorney and didn't participate in the hearing at all. When the judge asked the attorney if the defendant had anything to say at trial, the defendant chose not to respond.

Defendant 2:

- » Defendant 2 didn't do or say anything prior to sentencing, but at the sentencing hearing, when the judge asked if he had anything to say, the defendant said: "I'm going to really miss my kids. For their sake, I hope you'll take that into consideration."

Defendant 3:

- » Defendant 3 did a lot of work prior to sentencing. He completed an extensive amount of written work that helped to document his life story. His effort showed the judge what he learned from this experience with the criminal justice system. Further, he showed a series of methodical steps he has been taking to make things right.

Based on what we've learned from our work with federal judges and based on the work we've done with hundreds of other defendants, we're convinced that in the example above, Defendant 3 stands the best chance of receiving leniency at sentencing.

Why?

The judge will recognize Defendant 3 as a person who is willing to work hard. Defendant 3 is serious about making amends. For a person to write extensively, a person must think extensively. That thinking reflects introspection. Introspection shows that Defendant 3 is learning how past decisions influenced current problems. When we combine that introspection with good planning, and with accountability metrics, the judge identifies with the message. It is the same message and strategy that the judge used to advance his life and career. The judge recognizes that Defendant 3 uses tools to make better decisions.

What are our tools?

Our values and goals reflect the tools we use. With those values and goals, we advance possibilities for the best outcome at sentencing. Our tools show that we created a roadmap that will take us from where we are to where we want to go.

Defendants 1 and 2 failed to create a roadmap. They have not shown the judge anything. As a result, the judge can only consider what the prosecutor and defense attorney have said about the defendant. Yet both the prosecutor and the defense attorney have an agenda. A prosecutor wants a tough sentence. A defense attorney wants leniency.

But in the examples above for Defendant 1 and Defendant 2, the judge doesn't know anything. He doesn't have any reason to consider the defendant as being a candidate that is worthy of leniency. He doesn't know the influences that led the defendant into the crime. Nor does he know whether the defendant has learned anything from the experience.

- » If Defendants 1 and 2 haven't learned anything from the experience, on what basis should the judge grant a request for leniency?
- » How can the judge be sure that the defendant will not engage in the same type of behavior that led to this conviction?
- » What efforts are these defendants making to influence the judge?

A good sentence mitigation strategy should anticipate the judge's reaction. The strategy should also anticipate the prosecutor's reaction. Here is an abbreviated version of what you can expect a prosecutor will say:

- » The defendant says he is sorry, your honor. But the defendant is only sorry because he got caught. We did not hear the defendant speak about the many victims in this case. For that reason, your honor, we're asking for the maximum sentence allowable.

Obviously, the prosecutor will insert more details. If a defendant anticipates such a statement, the defendant can act. Use our Straight-A Guide Mitigation tool. It starts with identifying values and goals. But that is only a start. Identifying values and goals are the prerequisites to using the tool. Once we've identified values and goals, we move forward in a methodical way. Our Straight-A Guide Mitigation strategy requires us to consider:

- » Attitude
- » Aspiration
- » Action
- » Accountability
- » Awareness
- » Achievement
- » Authenticity
- » Appreciation

How do we apply those concepts to a mitigation strategy? We apply these concepts in the same way that we apply concepts to any other success strategy. Let's briefly discuss each component. In the next lesson, we'll show an example of how any person facing a sentencing hearing may use those components to craft an effective sentence mitigation strategy.

Attitude:

Our mitigation strategy must show the judge that we have the right attitude.

- » What's the right attitude?

We measure the right attitude by showing that we're making a 100% commitment to success.

» How are we defining success?

We're defining success with our values and goals. When writing out your mitigation piece, make sure that you're showing that you've got the right attitude.

Anticipate that your prosecutor will make a case that you're not remorseful. Anticipate that the judge has heard pleas for leniency at sentencing from every defendant.

Contemplate how your mitigation package will reveal your 100% commitment to the values and goals you've described. Those who judge you will assess whether you're being truthful. By anticipating that your prosecutor will portray you in a negative light, you can craft a plan to help you overcome that obstacle. The words you choose, the thoughts you express, and the plans you make will reflect whether you're sincere about wanting to make a change in your life. Never underestimate the forces working against you or the power you have within to show your commitment.

Your commitment reveals your attitude.

Aspiration:

A sentencing judge has a long history of listening to defendants. All people the judge has ever sentenced shared one desire in common: they wanted leniency.

Sometimes, their mitigation efforts failed to show why they were worthy of leniency. Saying "I'm sorry" isn't always enough.

If people have unrealistic expectations about the best possible outcomes, then they put themselves on weaker ground than if they were to build a plausible case—showing they appreciated the severity of the situation from the perspective of stakeholders who work in the system.

A good case is a compelling case. A bad case is one that doesn't offer any substance or supporting documentation. We've got to show the work. In many circumstances, it doesn't make sense to request an alternative sentence that doesn't include imprisonment.

When the conviction involves a crime that a judge would consider a real threat to society, a defendant may focus the mitigation effort on helping the judge empathize. Rather than telling the judge an appropriate sentence, build a story. Strive to shape the judge's perception. Describe the influences that led the defendant into making decisions that led to this outcome. Then the defendant must show steps he is taking to overcome those influences. The sentencing judge may respect such aspirations as being part of the defendant's systemic plan to make better decisions in the future. That can go a long way toward persuading the judge that a lower sentence is warranted.

Action:

We show that we have the right attitude by expressing our 100% commitment to make values-based, goal-oriented decisions. Yet those decisions will only lead us from where we are to where we want to go if we take the necessary action steps. Think about the action steps that you can take today.

As we show in our book, *Earning Freedom: Conquering a 45-Year Prison Term*, regardless of what predicament a person is in today, that individual can begin sowing seeds for a better outcome. But the person must take incremental action steps.

Writing out your plan is one action step. But what other steps can you take today to leave the judge your commitment? What action steps will make an impression on your judge? There is always an action step to take, regardless of where you are now. That is why it's best to start this mitigation effort early. The earlier you begin, the more you can show how you're taking steps to make amends. Those action steps build credibility, and they may advance a mitigation effort.

Accountability:

A good mitigation strategy will incorporate accountability metrics. Those accountability metrics will show how much thought went into the mitigation strategy. Judges understand that change does not happen overnight. As described above, their trajectory to the bench was likely a long and methodical journey. They likely relied upon accountability logs to help them track their incremental progress.

A mitigation strategy looks more plausible when it includes measurement tools. In the story you're building, show the incremental changes that you intend to make along the way. Again, use our books as examples of how accountability logs helped our team members advance in incremental steps.

- » How will your mitigation strategy show the incremental steps that you're taking to reconcile with society and to make amends?
- » In what ways will your accountability log show differences in your life one year from now and five years from now?
- » How does your accountability persuade a judge that you're thinking through a sustainable path to success as a law-abiding, contributing citizen?

Awareness:

Your mitigation strategy should reflect your awareness of opportunities to grow. By writing out your plan, you can show that you're not waiting for time to pass. You're not feeling sorry for yourself. Instead, you're taking action. All judges want to see action more than words.

To the extent that your actions are consistent with the plan you laid out, you become more believable.

Opportunities for growth are all around. Judges know that few defendants perceive those opportunities. Through your mitigation strategy, you must show how you're actively behaving differently from most defendants who come before the court.

Every defendant requests leniency, but few defendants show that they're on a path that reflects their commitment. Show that you're aware of steps you can take today to begin influencing a more positive tomorrow.

Further, by adhering to this path, you're more likely to bring others into your life. Those others will develop a vested interest in your success. Judges want to see that you have support. They want to see that you're on a pathway to success. They want to know that defendants are choosing a different path from the path that led them into the criminal justice system.

A good mitigation strategy should disrupt the system's current perception. Show your commitment to grow.

Achievement:

In what ways can you measure and celebrate incremental achievements? You advance your prospects for mercy when you get the judge to identify with your plan.

How can we use this knowledge in our mitigation strategy? We create the same type of plan that the judge has used throughout his life. Those plans show incremental action steps.

The judge likely believes that he is in his position because of the small, incremental steps he has been taking for his entire life. He began following a plan as a young person. He put work in so that he could perform well in school. The grades he earned led to distinction and to new opportunities. Those opportunities led to respect from his colleagues. That career path eventually led to a presidential appointment and to confirmation by a group of U.S. Senators. He sees his life as a series of incremental achievement.

In your mitigation strategy, show how you're intending to build on a series of small, incremental achievements. Your strategy must reflect the building blocks that will lead you from where you are today, to what you aspire to become in the weeks, months, years, and decades ahead.

Authenticity:

Let your work reflect your authenticity. Rather than your perception, make it clear that you're considering the perception of your judge.

- » In what ways can you differentiate yourself from every other defendant the judge sees?
- » How does your plan show your authenticity?

It's crucial to think from your judge's perspective. Life experiences likely will make your judge very cynical of anything you say. He has heard too many defendants talk a big story. To build authenticity you should promise less and deliver more. This pattern will make you believable. If you're believable, you go much further toward your goal. You may persuade your judge to see you for what you can become, and not only for the crimes that led you before the bench.

Appreciation:

Finally, remember that your judge believes that all good citizens want to live as a part of the law-abiding, contributing community. From a judge's perspective, people who break laws live selfishly. Instead of thinking about how their actions influence the lives of others, criminals think about themselves.

Your mitigation strategy should take the perceptions of law enforcement into consideration.

- » What steps can you take to overcome judicial bias that comes from your current predicament?

Create a plan to show how you're striving to contribute to society in meaningful, measurable ways. To the extent that you can show that you're thinking about others, you're showing that you want to be one with society.

Judges are more likely to respond favorably to people who show that they're striving to live for goals that show their respect for law and order. Think about the broader community. Create a pathway that leaves your judge with the impression that you're on a path to live as a law-abiding, contributing citizen.

1. In what ways does your mitigation package differentiate you from every other defendant who asks for leniency at sentencing?
2. What does your defense attorney use to know about the efforts you've made to reconcile with society?
3. How does your mitigation package reflect your awareness of the job market you will encounter upon release?
4. In what ways is your mitigation package showing that you're striving to make amends with your community?
5. What does your mitigation package reveal about the incremental changes you expect to make over the next five and ten years?
6. How does your mitigation package show that you're tracking incremental progress?
7. When your judge reviews your mitigation package, what level of growth will it show that you've made?
8. In what ways will your mitigation package counter prosecutorial statements that suggest you're only sorry because you got caught?
9. Why does your mitigation package show that you understand the severity of your crime and the victims that suffer because of the crime?
10. What is the best possible outcome from this mitigation effort?

4. Straight-A Guide Case Study: Example

Case Study: Michael

In our first three modules, we've given you the theory behind our Prison Professors' Sentence Mitigation Program. That theory urges our clients to begin with a clear understanding of the best outcome.

To the extent possible, we recommend that participants contemplate the perspective of the stakeholders who will make judgment decisions in the future.

Obviously, every participant would like to avoid any type of sanction at all. Yet an effective mitigation strategy requires that we live in the world as it exists, and not as we want it to be. We begin from the perspective of stakeholders:

- » What will the judge think of me?
- » What will the prosecutor think of me?
- » What will the probation officer think of me?
- » What will people in the Bureau of Prisons think of me?
- » What challenges will I face from people I meet in the future, after this part of my life is behind me?

If we create a strategy from their perspective, we can take more methodical action steps.

When federal prosecutors bring charges against a defendant, a record exists. That record can lead to judicial bias. It can lead to bias from others in the system. We must craft our strategy to counter those perceptions. We want to disrupt the image of those who judge our clients. If we prepare an effective mitigation strategy, we can influence the outcome of the hearing.

The sooner we begin to prepare, the better off we are.

In these following modules, we work through the mitigation strategy in a practical way. We will take the lessons we've learned and apply them.

When our mitigation experts work on a project, they sometimes create mitigation packages that stretch into multiple volumes. You can see examples of those strategies on PrisonProfessors.com, where we feature the work our team completed with leaders such as:

- » Bill McGlashan, one of the world's leading impact investors
- » Mossimo Giannulli, clothing manufacturer

Both of those people faced challenges from the criminal judicial system. And both of those people created effective mitigation strategies to improve their outcome. They continue their mitigation efforts, working with our team to build solutions to collateral consequences of mass incarceration.

- » What will you do to work toward your mitigation at every stage of the journey?

The remainder of this lesson offers an example that you may use as a template. We're offering some salient points to consider in a mitigation strategy. Then we will offer commentary on where we would go if this were an actual mitigation package. We offer some analysis, trying to explain why we wrote such words and what a client may be thinking when preparing a mitigation piece. So as not to betray the confidence of any people that works with our team, I'm using my own story as an example. Below is the abbreviated version of the story that brought me into the criminal justice system.

The Facts:

When I was 20 years old, I saw the movie *Scarface*. By then I was already going down a bad path. I didn't think much about making the type of values-based, goal-oriented decisions that our team at Prison Professors teaches now.

Back then, I chose friends who had a bad influence on me. When I saw Al Pacino playing the character Tony Montana, it looked pretty cool.

Soon after watching the movie, I began making inquiries about the price of cocaine. I looked for information on how much users would pay for cocaine. And I

looked for information on how I could purchase cocaine in sufficient quantities to make a profit. Wanting to limit my exposure to potential problems with the law, I hired other people to handle and transport the cocaine.

Those decisions exposed me to charges of a more serious nature. A grand jury indicted me. I knew that I was guilty of every count. Yet rather than making decisions that would show an acceptance of responsibility, and express remorse, I pushed prosecutors to the limit. I went through trial. I committed perjury on the witness stand, claiming that I didn't have anything to do with selling cocaine.

A jury convicted me of every count. The crime for which I stood convicted carried a possible sentence of life in prison. I was 23 years old.

Analysis:

At the outset, I was in a worse position than most. I lied on the witness stand. A jury convicted me. I was convicted of serious drug crimes at the start of our nation's war on drugs. Considering the severity of my crime, and the way I responded, my lawyers suggested that I prepare for the worst. From their perspective, my judge could very well sentence me to life in prison.

In my case, the conviction truly did bring a shift in mindfulness. In *Earning Freedom*, I describe the shift. After the jury convicted me, I began to think differently. I realized that I was in serious trouble and I wanted to change. That desire to change led me to begin questioning my past decisions.

» What would happen to my life if I remained defiant?

I had to consider the predicament from my judge's perspective. My perspective didn't matter. My judge had the discretion to sentence me to life in prison.

» How did he view me?

» How would the decisions I made in the past influence my judge's decision at sentencing?

» What was the best possible outcome?

Regardless of how I felt about the criminal justice system, the fairness of the prosecution, the sentencing system, I needed to consider the questions above.

» What, if anything could I do to influence the outcome?

To start, I needed to influence my judge's perception. My past decisions likely had a very bad impression on him. Not only did he hear all of the evidence against me, he saw me during the trial. I took the witness stand, put my hand on the Bible and I swore to tell the truth. Then I responded to questions from my attorney by looking at the jury and lying. I denied any involvement in the crime and accused the prosecution of profiling me.

In retrospect, I could see that the judge likely considered me the worst type of criminal. Despite how I saw myself, in my judge's eyes, I was a manipulative young man who lacked any sense of remorse. That is the type of defendant that could very well warrant a maximum sentence.

Considering my conviction, the maximum sentence would be life.

» What could I do to mitigate those perceptions?

Decisions I made in the past were not going to make it simple. Saying "I'm sorry judge" is not effective as a mitigation strategy. Likewise, I wouldn't get the result I wanted by arguing that a lengthy sentence wasn't fair.

Preparing for the lowest possible sentence requires us to think differently from the way that we've thought in the past.

Those who've gone to trial, as I did, have a particularly difficult task in building a mitigation strategy. It's difficult, but as readers will find in *Earning Freedom*, it's never too early and it's never too late to sow seeds for a better outcome.

Scott Tucker Example:

Take the case of Scott Tucker. Scott was the founder and CEO of a several companies that generated billions of dollars of revenues, taxes, and profits. The business

centered on the payday lending industry. He launched his business more than 20 years ago as a startup and he grew the venture. Over time, his company employed thousands of people. Throughout the development of his company, Scott hired legal counsel to advise him on the decisions he would make. By relying on those letters of opinion from counsel, Scott created a business that he believed operated within the letter of the law.

Government representatives disagreed.

During an interview I did with Scott, he told me that he invested more than \$1 million each month to pay lawyers that would advise his business on compliance. He battled in state courts across the country.

When the Federal Trade Commission launched an investigation against his company, Scott's fortunes took a turn for the worse. A judge ruled in the FTC's favor and levied a sanction against Scott for more than \$1 billion. Then the judge froze his assets.

Following that decision, prosecutors in the Department of Justice indicted Scott. They accused him of violating the Truth in Lending Act, among other crimes. Without assets, he proceeded through trial with appointed counsel. A jury convicted Scott of all counts.

Since prosecutors argued that Scott's business generated "losses" that exceeded several billion dollars, the Federal Sentencing Guidelines recommended a sentence of more than 130 years. Scott's lawyers said that prosecutors would agree to cap Scott's sentence at 20 years if Scott would forfeit his appellate rights.

When Scott began working with our team, the record was already well documented. We couldn't change the past. Instead, we had to think about steps we could take for the best possible outcome.

Our approach differed from what Scott wanted to argue in his approach to sentencing. Like many defendants:

Scott disagreed with many of the judge's rulings throughout the judicial process.

Scott thought that the jury did not truly understand the complexities of his business.

Scott believed he was not guilty of the crime, and he wanted to express his feelings to the judge.

We knew that Scott faced many challenges. His businesses generated hundreds of millions in profits for him. Yet his clients were people who needed to borrow a few hundred dollars to make ends meet until their next payday. In the eyes of stakeholders, Scott would not be a sympathetic figure. That was obvious by looking at the length of sentence that both prosecutors and probation officers requested.

To begin the mitigation strategy, we had to ask a few basic questions.

» How would arguments that Scott wanted to make influence the judge?

If Scott tried to litigate the merits of his case during the sentencing hearing, we believed the judge would perceive him as being a poor candidate for mercy.

» What strengths did we have going forward?

Despite challenges that follow for anyone who loses after a trial, we knew that the judge did not know anything about Scott personally. Lawyers presented their theories of the case in motions to the judge. And the judge listened to testimony from witnesses. Those factors did not work in Scott's favor.

Still, up until we launched the mitigation strategy, the judge would not know anything other than factors of the case that led to Scott's conviction.

A mitigation strategy could give the judge a different viewpoint. We had to help the judge see Scott as a human being. In our strategy, we created a package that helped the judge understand more about Scott's background.

We built a story to humanize Scott and to show the motivations that led him into business.

- » We helped the judge understand why Scott exercised his right to trial, and then we showed what Scott learned from the entire process.
- » We emphasized steps Scott was talking to make things right, and to the extent possible, expressed remorse for people who suffered because of his business model.

We know that strategy led to a sentence that was far less than the 100+ years requested by the government. Prior to Scott's sentencing date, we filmed a series of videos. Scott spoke about his business, his experience, and about the sentence-mitigation strategy.

My Mitigation Strategy:

In my case, the mitigation strategy was even more difficult. Besides contesting my guilt through trial, I made matters worse by lying on the witness stand. I said I didn't have anything to do with selling cocaine. It was part of my scorched-earth defense strategy. Deny everything. After the jury convicted me, I would need to face fallout from my failed strategy.

Lawyers told me to expect a life sentence.

I returned to my jail cell in deep thought. I remember lying on my concrete bunk and glaring in a daze at the ceiling.

- » "What, if anything, could I do to unravel the mess that I created?"

Those thoughts led me to begin thinking about my future. The judge would have a direct influence on my life. He would sentence me. How could I overcome the judicial bias that followed my earlier decisions? Those decisions included:

- » Selling cocaine.
- » Refusing to accept responsibility.
- » Going to trial.
- » Committing perjury on the stand.

Without a doubt, those decisions would have left an impression on my judge. I had to think.

Those thoughts led to action.

In my case, mitigation efforts would require me to undo some of the damage that I caused. If the judge considered me an unrepentant criminal, I had to ask good questions.

» What action could I take to reverse his perceptions of me?

First step, I had to stop thinking about myself. The judge likely thought of me as being a selfish, egotistical person. I was a convicted criminal. The judge would have thought that I didn't think about anyone but myself. I had to change his thoughts.

More than changing his thoughts, I needed to show him the work, so he would be able to connect the dots. People don't make lifelong changes overnight. I would need to show him how and why I made changes. And I would need to make that case in a persuasive way.

As I wrote in *Earning Freedom*, Socrates inspired my strategy. By reading about the ancient philosopher, I learned that I needed to think about the broader society. I needed to show that I wanted to live for something that was greater than myself. His story inspired me to act.

Media:

I wrote a letter to Stuart Eskenazi, a journalist who wrote about my trial for the local newspaper. In the letter, I expressed that I regretted my bad decisions. Instead, of accepting responsibility for my bad decisions, I lied about my involvement.

Members of the jury saw through my lies and convicted me.

Knowing that I would be going to prison for a lengthy sentence, I pledged to use my time in prison to work toward reconciling with society. If the journalist wanted to learn more, I invited him to visit me in jail so that I could tell him my story.

Writing to the journalist, for me, would be like drawing a line in the sand. It would show the judge that, despite the bad impression I made by my earlier decisions, I was not beyond redemption. I could do better. I wanted him to see that I aspired to be a part of society—to pay for my crimes in the most responsible way possible.

The journalist took me up on the offer. He visited me in the jail, and I told him my story.

Although I didn't know how long of a sentence my judge would impose, I pledged to use every day of my sentence to improve. I said that I would find a way to make amends for the bad decisions of my youth.

Writing to the journalist was the first prong of my mitigation strategy. The next step was to write a detailed plan for the judge. That plan included an explanation of what changed for me. He had to see my evolution of thought. Effectively, my earlier decisions left me with the responsibility of persuading someone who would likely be very cynical of anything I said.

So I wrote him a story of how and why I had changed.

In my case, the change came with stories I read after being exposed to philosophy. I read about Socrates and his response to challenges in his life. By reading about Socrates, I learned more about the art of “Socratic questioning.” I needed to quit thinking about problems that my earlier decisions created. I needed to start thinking about what I could do to make things right.

Then I detailed a plan for the judge. While I served time in prison, I intended to follow a three-part strategy:

- » I would work to earn academic credentials,
- » I would work to contribute to society in meaningful, measurable ways,
- » I would work to build a support network.

By detailing how Socrates inspired me to think differently, I could help the judge understand that I shifted my thinking. Then, by taking steps to detail a plan I would follow in prison, I let the judge know that I expected to work through the prison journey. I would work toward becoming a better human being. I would work toward becoming a better citizen. Saying I felt sorry for the crime wouldn't be enough. I had to take affirmative steps to persuade the judge what I learned through introspection. I had to show that:

- » I thought about the victims of my crime.
- » I thought about the influences that led to my participation in criminal activity.
- » I thought about steps I could take to show that I wanted to live as a law-abiding citizen.
- » I thought about ways to show the judge that I wanted to make an irreconcilable break from my criminal behavior.
- » I could articulate an actionable plan that would lead to my emerging from prison as a person who was worthy of a second chance at life.
- » I had learned from the entire process.
- » I was worthy of his mercy.

My judge sentenced me to serve a 45-year prison term.

Was it what I wanted?

No.

I did not want to serve a 45-year sentence. But given the bad decisions I had made previously, a 45-year sentence may have been *the best, possible outcome*. I had a tough judge. And since my attorneys told me to expect a life sentence, I left the courtroom feeling somewhat relieved. At least I had finality. And my mitigation strategy could carry me through the sentence. I would find a way to use the strategy to create a life of meaning and fulfillment while I served the sentence. That strategy would accomplish several goals:

- » The mitigation strategy would provide the direction I needed to move through the prison term with a deliberate plan of action.

- » The mitigation strategy would keep me disciplined and operating with a high level of energy.
- » The mitigation strategy would allow me to focus on the positive and repel the negative.
- » The mitigation strategy would get me home at the soonest possible time.
- » The mitigation strategy would open opportunities for the highest levels of liberty when I returned home.
- » The mitigation strategy would position me for early termination of my term on Supervised Release.
- » The mitigation strategy would set me on a path to rebound with career opportunities.

I am not saying that my strategy is the right strategy for everyone. What I am saying is that once I took matters into my own hands, I stopped the feeling of helplessness. I no longer felt as if I were spinning out of control. I stopped living as if others were going to decide my fate. The strategy restored confidence, put me on a new path.

It resulted in a 45-year sentence. For me, that was a starting point. I could work from there. It was better than what my attorneys told me to expect.

Scott Tucker had a similar outcome. He got 16 years. Neither of us got the sentence we wanted. But given our past decisions, it was better than what others expected.

The time is now to create your mitigation strategy. Figure out an accurate assessment of how the judge and others perceive you. Then work on a plan to show that you are much more than the criminal charge. Show that you're worthy of mercy.

Consider the following ten questions. Your responses may guide your personal mitigation strategy.

1. What does my judge think of me?
2. How will my prosecutor portray me?

3. What will my probation officer say about me?
4. In what ways will my behavior after the conviction differentiate me from other defendants?
5. Why do I see myself as being worthy of mercy?
6. What steps have I taken to show what I've learned from the conviction?
7. In what ways have I helped my attorney present a credible case for leniency during my sentencing hearing?
8. How does my mitigation strategy advance the argument that I've got a solid plan to carry me through the prison term?
9. What was the impetus that changed my mindset?
10. Why should the judge see me as something more than the decisions that led to my conviction?

5. Straight-A Guide Aspiration

In developing your mitigation strategy, think about your aspirations.

- » What do you want?

Our team of mitigation experts at Prison Professors asks this question in all of our courses. The Straight-A Guide teaches strategies that may lead participants closer to mercy at sentencing and put those who use it on a path to best possible outcomes.

Participants should think about what they aspire to become. If you're facing a sentencing hearing, consider:

- » How will you use your past experiences, and your introspection, to shape

- the rest of your life?
- » Where have you been and where are you going?

Try to answer that question in a manner that will influence those who judge you.

It's always crucial to think about the people you're striving to influence when crafting your sentence mitigation strategy.

- » Who will you meet in the future and how will they perceive you?

If you're going through this course, think about how stakeholders in the criminal justice system perceive you. For now, their perspective be limited to seeing you as a criminal defendant. They may want to base their perception of you on the worst decision you made in your life. You have a history of contribution, but they do not consider the positive attributes of your life. They think of the negative attributes that will bolster their case.

Regardless of how you feel about yourself, learn more about the lens through which those people will view you. For some people, that may be a very difficult undertaking.

- » What perceptions do you think those people have of you?
- » What experience do those people have of working with defendants?
- » In what ways are you working to show that you're different from other defendants those people are used to encountering?

Unfortunately, many defendants fail to contemplate such questions. Understandably, they view the world from their own lens. They do not comprehend that unless they do something to change perceptions, others will view them only for decisions they made that led to the worst time in the defendant's life.

In truth, a defendant's perception isn't relevant in a sentence-mitigation strategy. Few people care what a defendant thinks about himself.

Most defendants would like others to view them from the same lens that a parent, or a loved one would view them. Yet defendants don't need to convince a par-

ent or a loved one that they are worthy of mercy. Defendants need to influence or convince stakeholders of the criminal justice system—and those people, as a group, are a cynical lot.

To prevail in a mitigation strategy, begin from the perspective of those stakeholders.

- » What preconceptions and prejudices do they have about criminal defendants?
- » What steps can we take to present a different perspective?

We craft a better mitigation strategy when we consider our life from various perspectives.

- » We need to persuade others that we understand ourselves and that we understand how others see us.
- » We need to show that we've invested the time and energy to learn from those observations.
- » We must show that we've learned from those introspections and that we've taken steps to improve.
- » We must show that those improvements will lead us to the people we aspire to become.

Those aspirations should lead others to believe that we're on a better path and that we're less likely to ever become involved with the criminal justice system again.

Consider four different lenses to assess who we are, or what we are:

- » Lens 1: What do others know about us, and what do we know about ourselves?
- » Lens 2: What do others know about us, that we may not have considered about ourselves?
- » Lens 3: What do others not know about us, that we know about ourselves?

Lens 4: What remains unknown about ourselves by others, and by ourselves?

- ◇ How can we use such questions to demonstrate that we've thought long and hard about our place in the world, and how we got here?
- » How can we use such questions to persuade others that we've grown from our experiences?

Our work in responding to these different questions can help us. We could write one-sentence answers. But that won't do much to show how hard we've worked to "fix" the type of thinking that judges may believe led to our demise.

We must think critically, showing that we're not only concerned about what is happening to us. We're also concerned with how our actions, behaviors, and decisions influenced other people and the world in which we live. The harder we work, the more successful we become at building a persuasive case to show how deeply we've introspected.

Participants in this course may notice that we spend considerable amounts of time on introspections. Our research with sentencing judges convinces us that exercises in introspection are the most effective strategies defendants can use to show that they're worthy of mercy.

- » We want a judge to know that we've thought through our decisions extensively.
- » We want a judge to know that we're different from the other people who came before the bench for sentencing.

This is the definition of empathy. When we show that we fully grasp our relationship to others, we advance arguments that we're worthy of mercy.

Defendants must build these persuasive cases. They cannot rely upon counsel to build those types of cases for them. Lawyers may build strong cases that show how to apply guidelines appropriately, what charges are appropriate, and how to interpret case law or statute.

Those analytical strategies are crucial to the sentencing process. Yet the lawyers cannot help a judge grasp the mindset, thought patterns, or remorse of a defendant as well as a defendant can do with an effective personal mitigation strategy. Judges know that lawyers know how to think, introspect, and strategize. Yet the judge wants to know more about the defendants they are about to sentence to prison.

Judges want to know how hard the defendant has worked to understand the severity of his crime, and what steps the defendant is taking to change thinking patterns. A judge knows that no one can change the past.

Many defendants give the following line at sentencing:

- » “If I knew then what I know now, I wouldn’t have done it. I’m not really a bad person and I don’t want you to think that I am.”

That type of expression doesn’t do much to persuade a judge to be merciful. To influence a judge, defendants must show that they’ve changed thinking patterns.

The following exercise may help participants build a persuasive case that they’ve changed thinking patterns, and they understand their relationship to others in society.

- » Begin by considering what we know about ourselves and what we think others know about us.
- » Show that we’ve thought about how those two perceptions are compatible.
- » Consider how they differ and what we’ve learned by thinking about them.

Briefly consider the following 50 adjectives:

Able	Accepting	Adaptable	Bold	Brave
Calm	Caring	Cheerful	Clever	Complex
Confident	Dependable	Dignified	Empathetic	Energetic
Extroverted	Friendly	Giving	Happy	Helpful
Idealistic	Independent	Individualistic	Ingenious	Intelligent
Introverted	Kind	Knowledgeable	Logical	Loving

Mature	Modest	Nervous	Observant	Organized
Patient	Powerful	Proud	Quiet	Reflective
Relaxed	Religious	Responsive	Searching	Self-assertive
Self-confident	Sensible	Shy	Sympathetic	Trustworthy

- » How would you use those adjectives to define your life?
- » How would others use those adjectives to define your life?
- » What would others agree with in your self-assessment?
- » In what ways do others see you differently from the way that you see yourself?
- » In what ways do you see yourself differently from how others see you?
- » In what ways can you show that you're striving to build a life that would cause both you and others to see you in this way?

Those are big questions. We can use those questions to build entire stories. And when we use those questions to write the story, we can influence the way that others see us. We persuade others how deeply we've thought about our lives, and how deeply we've thought about the life we want to lead in our future.

- » What skills and talents do I have?
- » In what ways have I used those skills and talents in the past?
- » What are my learning styles?
- » What are my enterprise skills?
- » What type of work-role preferences do I have?
- » Am I good in a crisis or do I provoke crisis?
- » Am I emotionally intelligent?
- » Why types of people don't like me?
- » What types of people like me?
- » Am I aware of what stresses me out?
- » Am I aware of my fundamental values?
- » Am I self-conscious in the sense that I really have self-understanding?

Perhaps it would be helpful to provide examples that you may contrast. The following exercise may show how we can use those types of questions to influence a judge. We'll compare and contrast a fictional white-collar offender with a man convicted of third-degree murder, or manslaughter.

Let's start by assessing a fictional letter to a judge from a white-collar offender. We'll use the letter as an example. Then, let's dissect the letter to compare and contrast the offender's self-assessment with how those in the criminal justice system may view the offender. Then we'll consider the life story of a person who was charged and convicted of manslaughter, which is an unintentional killing.

First, let's look at the white-collar offender.

Example 1: The White-Collar Offender:

Dear Judge,

I am sorry for what I did and I hope that you will see me for the type of person that I really am. Although I pleaded guilty to this crime, my conviction doesn't reflect the type of person that others know me to be.

I graduated from a prestigious university, and I come from a wonderful family. My parents gave me every opportunity to succeed. I am not like other people who come into the criminal justice system. In fact, I'm not a criminal at all and everyone who knows me doesn't think I should be going to prison at all.

Prison is not necessary in my case because I would never do this type of crime again. I do not abuse drugs or alcohol and I do not associate with other criminals. I am a kind and considerate person, but I made a mistake, and I am sorry.

I don't need to be punished further.

I am able bodied and there are many ways that I could repay society for the mistakes I made. After all, I accept full responsibility. The crime that I committed isn't totally my fault because what I did was common practice in my industry. In fact, our firm encouraged us to use the tactics I used. They paid us bonuses when we brought in more business. To bring in more business, we all took similar steps and our firm encouraged us to be aggressive. In my case, the steps led to a guilty plea, but everyone in my industry does the same thing. I pleaded guilty to the crime because I wanted to put this matter behind me and get on with my life.

I am well educated and I'm a hard worker, and I have so much to offer society. But still, I'm remorseful for what I did because I should have known better. This crime is really out of character for me and it is not like me to be in this position.

My plans are to give back to society because I want to make a difference. Since I pleaded guilty, I've been going to church. Through prayer, I've learned that part of my mistakes came because I quit paying attention to God. I'm not going to make this kind of mistake again. I've been going to church and volunteering to teach the kids. Our future is all about the children. I'm going to use this experience, along with my talents and gifts to mentor more kids to make better decisions. I've also been volunteering at the homeless shelter. When this is behind me, I will continue working in my profession and paying taxes.

Your honor, my wife and kids don't deserve what's going to happen to me. I've been the sole earner for our family and if I go to prison, they're going to suffer tremendously. There is really no benefit to sending me to prison when I could be working to teach others, volunteering, or doing some type of community service to make things right. I will never make this type of mistake again.

For these reasons, I ask that you spare me imprisonment and sentence me to community service or probation, where I can do better for society.

Respectfully,
Joe White-collar Offender

To go through the exercise, respond to the following questions:

- » What would you say that Joe's letter reveals about how he sees himself?
- » What would a judge think about Joe after reading his letter?
- » Identify how the above letter may lead a judge to form a perception about Joe that Joe would never think about himself?
- » What qualities may Joe have and know about that are not reflected in the above letter, which would mean that the judge doesn't know?
- » In what ways does the above letter show that Joe has worked to explore areas of this thinking patterns that led to his demise?
- » In what ways does the above letter show that Joe is putting himself on a

pathway to avoid future problems with the criminal justice system—from Joe’s perspective?

- » In what ways does the above letter show that Joe is putting himself on a pathway to avoid future problems with the criminal justice system—from the judge’s perspective?

By working through the above questions, a participant can develop a more effective strategy in advocating for himself. Try to judge Joe White-collar Offender from Joe’s perspective. Then judge Joe in the way that stakeholder’s in the criminal justice system will view him.

Consider the following table as an example:

Question	Response
1. What does Joe’s letter reveal about how he sees himself?	Joe isn’t a criminal. He pleaded guilty, but it’s really not his fault. Everyone was doing it. He comes from a good family and he has a lot of good friends. He should not go to prison because prison is for people who use drugs and think like criminals.
2. What does the judge think about Joe?	Joe lacks empathy. He only thinks about himself and he does not think about how his crimes have impacted society or the victims of the case. Joe has not learned anything from this experience and he is not worthy of mercy.
3. How do the two perceptions differ?	They are utterly irreconcilable. Joe will walk away thinking that he is a victim and everyone is against him. The judge will view Joe as being a typical narcissistic and arrogant offender who is beyond hope for redemption.
4. What does Joe know that the judge doesn’t know?	Joe is truly remorseful for what he has done and he wants others to see him as a good person

5. How does the letter show that Joe has worked to change his thinking patterns?	The letter fails to reveal that Joe has changed anything.
6. What does the letter show that Joe is thinking about his future, from Joe's perspective?	Joe thinks that by saying he is sorry and that he will work in the same profession, the judge will see him as a good person who should not go to prison. Perhaps they can become golfing buddies and get over this misunderstanding.
7. What does the judge think that Joe is thinking about his future?	The judge thinks that Joe has flawed thinking patterns and that he is a likely candidate for recidivism. The judge will think about the victims of the crime, society, and protecting others from Joe by locking him in prison to prevent him from committing more crimes in the future.

Example 2: The Man Convicted of Manslaughter:

Compare and contrast the remorse letter that Joe White-collar Offender wrote with the story presented by Titan Gilroy. We feature Titan on our podcast at the following link:

- » Interview with Titan Gilroy
- » <https://youtu.be/Q2HsVAH-ZZk>

Although we encourage participants to watch and learn from Titan's story, we can summarize what Titan said below.

In the interview, Titan Gilroy tells the story of how he went into the criminal justice system and what steps he took to change his life. As a child, Titan says that he was poor and insecure while growing up in Hawaii. Others bullied him. To

build self-esteem, Titan learned how to fight. He admired people who were good fighters. A mentor noticed that he had talent and the mentor began to train Titan.

Through hard work and training, Titan became a skilled boxer, winning Golden Gloves competitions. Then he had opportunities to train as a professional prize fighter. Titan talks about the temperament and aggression that builds as one trains to become a prize fighter. That temperament and aggression doesn't only stay in the ring, he said, but it can stay with an individual. At least Titan says that aggression stayed with him, revealing a high-level of emotional intelligence.

While in a bar, Titan got into an altercation with someone. Titan's temperament and aggression led him to punch the person. Because of Titan's training and power, the punch had a devastating outcome, as the person died.

Authorities charged Titan with manslaughter and he went to prison.

Following Titan's release from prison, he began training to resume his career as a prize fighter.

While in that training mode, Titan came close to another altercation. He didn't do anything wrong. Yet the result of his background put him dangerously close to being arrested again. When he came close to an arrest, he realized something about himself. He introspected and his introspections led him to make some deliberate changes. As long as Titan trained as a fighter, he would continue to feed his aggression. He also understood that others would always judge him for his past. Titan had to make a change.

Titan then describes how he walked away from his dream of building a career as a professional prize fighter. Sensing that if he lived around people who had an influence on his career as a fighter, he would be vulnerable. Accordingly, Titan moved to get away from the people he knew.

Titan searched for any type of minimum-wage job that he could find. He found a job that required him to clean up in a machinist shop. The shop was loud and dirty. But Titan describes how he applied himself and how he devoted time to learn. He build a career as a machinist. Then he built his own machine shop. He employed scores of people and generated millions of dollars in revenue. Then he

describes how he wanted to improve society, so he invested countless hours to create courses that would teach others how to become machinists. Despite becoming a successful businessman, Titan measured his success by how he helped others become successful.

In the interview, Titan shows us a great deal. He shows a very high level of emotional intelligence. He reveals how his thinking changed. Instead of seeing the world through his own lens, he introspected. Those introspections helped to change his thinking patterns and to change his life. For his entire life, Titan aspired to be a world-class prize fighter. But his introspections required him to change his aspirations.

Through the interview, we can see that Titan asked many questions. Learn from Titan's story by responding to the following questions:

1. What did Titan think about the ways that others would perceive him?
2. What did Titan think about stressors in his life?
3. What didn't Titan know about himself before he began to introspect?
4. What did Titan learn about himself, that he didn't know prior to his introspection?
5. What didn't others know about Titan before he began to change his thinking patterns?
6. How did Titan's introspection lead to a change his life?
7. How does Titan tell the story that would cause others to see his change?
8. If someone were judging Titan, would they be influenced by the crime he committed, or the way that his introspections changed his behavior?
9. When you compare and contrast Titan's story of being a convicted killer versus that of Joe White-collar Offender, which character seems more worthy of your empathy?

10. In what ways can you use Titan's story and the story of Joe White-Collar Offender to build a case for mercy?

6. Straight-A Guide Action

Every person that faces a sentencing hearing wants to get out of prison early. But not every person wants to *prepare* in ways that advance prospects to get out early. To prepare, we must act.

Consider how the opposition will act.

» How do prosecutors achieve their goals?

Since they strive to convict, they work with investigators and gather as much evidence as they possibly can. They interview witnesses and strive to develop a story. They research statutes and case law. Then prosecutors strategize on how they can use all those resources to convict defendants.

Prosecutors will do anything it takes to win. They will devise the best possible plan to pressure defendants into pleading guilty. They may threaten to indict loved ones, or they may overcharge defendants, knowing that defendants are more likely to take a plea bargain if they're facing severe sanctions. If defendants choose to contest their guilt, prosecutors will create a plan to persuade a jury to convict. They use the same, deliberate, action-oriented approach to persuade a judge to impose a severe sentence.

» Are you willing to work as hard to get the result you want?

Probation officers have goals, too. They create more documentation to support the government's case against defendants. Viewing themselves as protectors of society, probation officers may be skeptical when they meet defendants.

Defendants should expect probation officers to write presentence investigation reports that give great weight to the government's version of events while diminishing any evidence that could humanize the defendant.

Humanizing a defendant does not advance the goal of a severe sentence.

Theoretically, judges approach all cases without bias. But it's not *practical* to believe that a judge approaches a case without bias. A judge may watch 100 different people sit at a defense table. If statistics hold true, convictions will follow for more than 90 of those people. The judge has the responsibility of sentencing those 90 people. To prepare for sentencing, the judge will review reports from prosecutors, probation officers, and defense attorneys.

That's an action step. After reviewing those reports and considering all the evidence that has come before him, the judge will decide on an appropriate sanction.

» What action steps have you been taking to influence that proceeding?

We encourage participants in all our Prison Professors' courses to take action.

Defendants can influence outcomes if they write extensively. Their writings will show how deeply they've thought about their predicament. This body of work provides the judge with more evidence to consider. Defendants can provide a different perspective than the judge will receive anywhere else.

Extensive writing helps judges see how much thought defendants have put into their predicament. From a judge's perspective, more "thought" equates to a less likelihood for reoffending. And a less likelihood to reoffend makes defendants better candidates for mercy.

Judges reveal that most defendants who come before them do not take action. They do not do enough to show who they are as human beings. As a result, judges base decisions on information provided to them from the prosecutor, the probation officer, and the defense attorney. Before imposing sentence, judges would like to know more about the defendant.

When defendants fail to take action in preparing effective sentence mitigation packages, they miss an opportunity to influence the sentence. Yet creating effective mitigation packages requires action.

Through earlier modules of this mitigation course, we've encouraged participants to think.

“Thinking” is a definitive action step.

But thinking is not enough. A person has to act.

Each module we offer concludes with 10 questions. Inside the individual modules, we've asked dozens of other questions. All those questions are open-ended—meaning that responding requires more than a one-word answer, like yes or no.

- » We designed the modules, and the questions, to induce participants to take action.
- » Whenever appropriate, defendants should write at length when offering responses.
- » Every question in the module could result in a response of at least one paragraph.
- » Some questions should result in responses of more than three paragraphs.
- » If a participant has taken action, by now, after completing five full modules, a defendant should have a package that includes at least 100 paragraphs of well-organized content that offers the judge a great deal to consider.

Envision the different possible scenarios and choose which option would be more effective at helping a judge understand the person he is about to sentence:

Defendant chooses not to make any preparations prior to sentencing, leaving the entire sentencing proceeding in the hands of the defense attorney.

- » What will the judge think about the defendant?

Defendant chooses to present a letter to express remorse.

- » What level of influence will that exercise have on the judge?

Defendant prepares an entire package, extensive in both depth and breadth, to reveal how much he has thought about the crime and its impact on society.

- » What would this package of information reveal about the defendant to the judge?

Remember our takeaways from the previous module:

- » We succeed when we design and prepare sentence-mitigation packages that help the judge know more about who we are as human beings, how we think, and what we've learned from this experience.

We recognize, of course, that some defendants began the Straight-A Guide Sentence-Mitigation course because they wanted to feel better. But if a defendant doesn't follow through with the work—or retain someone to help him complete the work—the package will not be anything more than words on a page.

Defendants who want a favorable result from this course must take action. They must provide the judge with evidence to show how much they've thought about the crime, the victims, their role in society, and how they can make amends.

Take an action step right now. Think, and then write! Respond to the following questions:

- » What thoughts go through a judge's mind the first time he reviews an indictment or charging instrument labeled, "United States of America—v—Your Name."
- » What thoughts go through a judge's mind when a defendant walks into a courtroom and sits at the defense table?
- » What thoughts go through a judge's mind after a defendant pleads guilty, or is found guilty by a jury?
- » What thoughts go through a judge's mind when reading a presentence investigation report?
- » What thoughts go through a judge's mind when he listens to a prosecutor argue for a severe sanction?
- » What thoughts go through a judge's mind when he listens to a defense at-

torney argue for mercy?

- » What thoughts does a judge formulate about a defendant when the defendant is silent at the sentencing hearing?

Those are all open-ended questions. Each of those questions could result in a response of at least one paragraph, and likely several paragraphs.

Let's provide an example of how such questions could help us build a sentence-mitigation strategy. We'll write a response to the first question above. Then we'll analyze how we could use our response to begin building our sentence-mitigation package.

Exercise:

What thoughts go through a judge's mind the first time he reviews an indictment or charging instrument labeled as follows:

United States of America—v—Your Name

A judge picks up a charging instrument and makes an immediate assessment.

In my case, I guess that the judge looked at the indictment and immediately assumed I was guilty. That's easy to understand. After all, convictions result for more than 90 out of every 100 defendants that the judge sees. If I had a job that resulted in the same outcome 90% of the time, I too would assess how each case would turn out. Sometimes, I may not even look at the facts.

I can see how a judge could become intellectually lazy.

A defendant wouldn't be very effective in changing the judge's bias by wearing a nice suit, showing off an academic pedigree, revealing how the person came from a great family, or making statements that he's not really that bad.

Judges respect prosecutors a lot more than they respect defendants. And prosecutors charged a person with a crime. When prosecutors charge a person with a

crime, that individual ceases to be a “person.” In an instant, the person becomes a defendant.

Defendants must accept the new reality. Bias from many sectors will come with this reality.

That exercise was an action step. Your response to the question could be different. We’ve asked that question to clients who inquired with us about writing sentence-mitigation strategies. David, for example, answered the question as follows:

Judges see a lot of criminal defendants, that’s true. But most of those people are really criminals. They sold drugs. Or they robbed people. They’ve never held a job or paid taxes. They didn’t finish school. They don’t have strong families or support groups. So obviously, when the judge sees the indictment, he expects to see those people as criminals.

My case is different. Even though I pleaded guilty, I think the judge will understand that I’m different. I didn’t set out to commit a crime or cause anyone to lose money. The markets turned against me and I didn’t have any control over what happened.

It’s not really my fault. I just pleaded guilty because I didn’t want the expense of going to trial and I knew that a jury may not get the whole picture. But I’m confident that the judge will know from my background that I’m not a real criminal, at least not the kind that usually goes into the courtroom.

The way that we respond to the question may determine what action steps we take next. David had a hard time believing that his judge would put him in the same category as every other defendant.

» But what action steps could David take to show the judge that he’s different?

Someone who reflects more deeply on the question, and responds as in the first example, may act differently from someone who expects a judge—and others—

to inherently know that he does not have a criminal mind. Without a better understanding of the process, a defendant like David may do nothing but wait for the best possible outcome. That approach, however, rarely gets the result a defendant wants.

Our team at Prison Professors likes to paraphrase a great author to present an analogy:

» If you can't fly, run. If you can't run, walk. If you can't walk, crawl.

In other words, if a person wants a specific outcome, he needs to lean toward action. He cannot wait for a defense attorney to make his case and he should anticipate that a judge or any other representative of the criminal justice system will view him from a favorable lens—regardless of his background. A person must take the necessary steps to unravel the biases and cynicism that is so pervasive with practitioners in the system.

Crafting an effective sentence mitigation package requires time and effort. It's crucial to build a compelling case showing why the defendant is worthy of mercy. Defendants should be sure that the prosecutor and probation officer will build their case. By working as hard as possible to match the voluminous package the government will prepare for sentencing, defendants advance their prospects for changing the mindset of judges, probation officers, and prison officials. Good packages may even influence prosecutors in a favorable way.

Use the questions in these modules as prompts to build your package. Write more, show the judge that you have thought deeply about the predicament at hand.

Take action!

Consider the following as an example:

I am deeply ashamed for what I've done. When I saw the indictment, I felt the full weight of my errors. I didn't only break the law, I disappointed my entire country. I stared at that indictment for hours. Shame and humiliation came over me as I

thought about the magnitude of what I was reading. I realized that by committing a crime, I disappointed the entire country.

As a citizen of the United States, I have a duty and a responsibility to abide by the laws in place. In this instance I failed. I did not have a right to break laws and I am ashamed for the actions that I took. By breaking laws, I made victims of every law-abiding citizen. I will do everything within my power to make things right and to make amends for the bad choices that I made.

There isn't any excuse for my behavior, and I will not offer an excuse. I am responsible for (describe the crime. Elaborate on your role and identify with the pain and suffering of victims.) I am determined to work toward making things right, to the best of my ability.

We encourage you to think creatively, and to provide details. Although you may use the sample above, remember that mitigation does not mean boilerplate. It must tell your story.

Anticipate that prosecutors will present the judge with hundreds of pages—fully indexed—to argue for a severe sentence. Expect the entire prosecutorial team to speak in a single voice, all revealing the following message:

The defendant isn't sorry for what he did. The defendant is only sorry because he got caught. We urge the Court to sentence the defendant to the maximum penalty allowable by law.

Defendants advance their case for mercy when they use the same strategy of providing the judge with an extensive, easy-to-follow guide that reveals more about his background and character.

This strategy goes far to disrupt the prosecutor's request for a severe sanction.

Unfortunately, some defendants take action, but they take the wrong action. We can provide many examples. Consider Martin Shkreli, the pharmaceutical executive who taunted investor-action groups, legislators, prosecutors, the media, the judicial system, and others. His strategy resulted in an unexpected detention

order. The actions Shkreli took will certainly influence his sentence, though it's unlikely the effort will make him a candidate for mercy.

When defendants are found guilty—whether because of a plea or because of a verdict after trial—preparing for sentencing should take priority. Defendants who strive to re-litigate their case, or proclaim their innocence, put themselves at risk for much harsher treatment in the journey ahead.

As an example, look at what happened to Robert Allan Stanford.

Stanford was the founder of a Caribbean bank that offered investors a high yield on certificates of deposit. The yields proved attractive, luring thousands of American investors to make deposits. Stanford relied upon incoming deposits to pay those yields.

According to the indictment—and to a guilty verdict—Stanford stole billions from those investors to fund his lavish lifestyle at the same time. He never saw himself as a criminal. From Stanford's perspective, he was a successful businessman and he expected others to see him the same.

Despite being charged and convicted, Stanford wanted to take action. Unfortunately for him, he took action steps that would further his demise.

He contacted journalists and media representatives. Even though he was convicted—settling the matter of guilt—Stanford felt compelled to argue his case in the imaginary court of public opinion. Although there wouldn't be any upside to making the case of his innocence in the media, he used every opportunity to lambaste the judicial system and declare that the system was rigged. Stanford argued that prosecutors deprived him of a fair trial because they manipulated evidence, confusing the jury.

Stanford's actions had an influence on the judge. Besides sentencing him to a term with a release date of 2105 for white-collar crimes, the judge made an unusual recommendation.

In the order, the judge wrote that Stanford was unremorseful. He urged the Bureau of Prisons to confine Stanford in a high-security, United States Penitentiary. Since then, Stanford has been locked in USP Coleman. In the volatile environments of high-security, Stanford confronts daily challenges from violence-prone prisoners.

A search of Robert Allan Stanford on YouTube will reveal several videos that show the disastrous consequences of his sentence-preparation strategy.

- » <https://www.youtube.com/watch?v=EqxqleYkDgo>
- » <https://www.youtube.com/watch?v=XotJ142oU5g>

Cases like Stanford and Shkreli leave a distinct impression on defense attorneys. Defense attorneys resist or discourage some defendants from saying much in court. Lawyers have their strategy to quarterback a case.

As a result, some lawyers advise defendants to minimize their contributions to the sentencing hearing. The lawyers may have concerns that a defendant could undermine the carefully laid out strategy, or they do not want to take the risk of a defendant making statements that could result in bad outcomes.

All members of our team at Prison Professors urge defendants to learn from cases like Stanford and Shkreli.

Take action but take the right kind of action.

If you're a defendant, do everything within your power prior to sentencing to show that you've given thought to the crime and the victims. Show that you've assessed the influences that led to the predicament you're in. That means a defendant shouldn't only talk about introspecting. A defendant should build a compelling case that shows the precise steps that he took, providing the judge and all stakeholders with incontrovertible evidence.

By building a compelling case, defendants advance prospects for mercy at sentencing. We consider it crucial to show that you've done a considerable amount of work. Your judge will notice the many files that prosecutors and probation

officers submit to argue for a severe sentence. Counter those arguments. Prepare yourself to overcome arguments by prosecutors who say that you're only sorry because you got caught, and that a lengthy prison term is necessary to protect society from you.

Action Steps:

1. Describe how your understanding of your case evolved since the day of your arrest.
2. In what ways has this experience of working through the criminal justice system influenced your understanding of your personality?
3. How would you assess the values by which you lived prior to your arrest?
4. In what ways has your arrested influenced the values by which you live now?
5. How would you describe the values of your closest associates?
6. What insight can you offer into the character of your parents?
7. Describe a character in television show that has influenced your thinking in the past.
8. Share a powerful lesson you've learned from a book you've read.
9. Share how you've described your problems with the criminal justice system to friends and close associates.
10. Talk about a role model, or mentor, and reveal how that role model or mentor influences your thoughts.

7. Straight-A Guide Accountability

When authorities launch an investigation or bring a criminal charge against non-criminogenic people, they can go through various stages of grief. They may live in denial. They may feel anger. They may feel as if they're misunderstood, or as if they're a victim.

As people who have gone through investigations, indictments, and prison terms, every person on our team at Prison Professors understands those feelings. We know that when in a bad state of mind, it's hard to focus or make progress.

For these reasons, it's essential that people create accountability logs. The accountability logs we create help us stay on track.

All courses in the Prison Professors Straight-A Guide curriculum require that we embrace the CEO mindset:

- » We must identify success as the best, possible outcome.
- » We must create plans.
- » We must set priorities.
- » We must develop tools, tactics, and resources that will advance our prospects for success.
- » We must execute our plan.
- » We must adjust as necessary.
- » We must hold ourselves accountable.

An accountability log helps people stay on track. Obviously, accountability logs are not unique to strategies that can lead to sentence mitigation. People use accountability logs in every area of life. As Steve Ballmer, the former CEO of Microsoft wrote:

Great companies operate with high cultures of accountability. Those accountability metrics help us determine whether we are succeeding. Accountability systems let us know when we must correct course and pursue new strategies.

Anytime we're doing something important, we should learn from leaders.

- » In what ways are you learning from the leaders around you?
- » In what ways are you incorporating strategies from leaders to achieve your objectives?

Consider ways that you can use an accountability log to help you build an effective sentence-mitigation strategy. Look at how others use accountability logs. For example, you may be a father or a mother. If you're not a father or a mother, you're a son or a daughter. Parents expect children to bring home report cards, and children know that parents will expect those report cards.

- » What do report cards tell us?

We use them to keep score. When students do well, we see progress. The report cards show areas where students can improve. Report cards are accountability logs to assess and report on student progress.

You might coach sports teams. You might play sports. Perhaps you watch sports. If so, you know that we measure performance. We count wins and losses. We count batting averages. We count passing or rushing yards. We count points. Each metric gives us an idea of future performance.

If you invest in public companies, you measure performance.

- » How well has the stock performed over the past 12 months?
- » Have sales kept pace with growth targets?
- » Does the company lead the market? How much does the company earn from each sale?

Those types of questions give investors an idea of the company's health. Investors assess all types of metrics, and they use to grow. They use accountability logs to determine whether they're on the right track.

Accountability metrics help us determine whether we're on the right track, and we can use them everywhere, including in our sentence-mitigation strategy.

Aristotle, another teacher from ancient Greece, wrote that we should always examine performance. He wrote:

“The unexamined life is not worth living.”

- » In what ways have you examined your choices?
- » How have choices you made in the past influenced who you are today?
- » What choices can you make today to influence the success you want to achieve tomorrow?
- » What steps are you taking to influence how your sentencing judge assesses you?
- » What tool have you devised to stay on track with regard to building a package to influence your judge?

We encourage you to examine past choices.

- » What did you gain or lose from past choices?
- » Reveal how different past choices would have led to different outcomes today?
- » What options exist to put you on track for the best future?

These types of reflections cause us to examine our life. They help us make better choices. Making better choices requires that we define success. Once we define success, we can reverse engineer the pathway to take us there. Create a well-designed accountability log and use it as a part of your sentence-mitigation strategy.

Starting Over:

As we’ve discussed through this course, when creating your strategy, contemplate the audience. You’ve been convicted of a crime. As a result, your judge will have a definitive view of you.

Some descriptions judges may use for people who’ve been convicted of a crime include being:

- » Undisciplined
- » Of poor character
- » Impetuous

- » Immoral
- » Selfish
- » Greedy
- » Arrogant
- » Self-centered

It's unlikely that we see ourselves that way. But again, no one is interested in how we see ourselves. We must create our sentence-mitigation strategy with an eye of influencing those who will judge us.

- » If you do not agree that others would use such adjectives to describe you, what adjectives would you use?

Our sentence-mitigation strategy begins with that understanding and acknowledgement of how others see us. It follows with a plan. Our plan should lead to the best possible way of influencing them. Then we must take methodical steps, putting priorities in place, to change perceptions.

Although it's not true in every case, we should anticipate that many judges view people with felony convictions as having flawed characters. They make assessments as soon as they see them. With that in mind, a good sentence-mitigation strategy will take the judge's perspective into account.

- » What can we do to get a judge to believe in us?

Let's try an exercise that doesn't have anything to do with the criminal justice system.

- » Take out a blank piece of paper.
- » Fold the paper in half.
- » Write Jim on the top of one side of the paper.
- » Write Tom on the top of the other side of the paper.

Now imagine two people standing in front of you. One man is named Jim. One man is named Tom. Both men appear to be about 30 years old and stand about five-feet nine inches. Both men appear to weigh 350 pounds.

- » On the side of the page where you wrote, Jim, write down the thoughts you have about him.
- » Based on what you see, what do you think about Jim?
- » On the side of the page where you wrote, Tom, write down the thoughts you have about him.
- » Based on what you see, what do you think about Tom?

If you've gone through the exercise above, you will have written thoughts about each man. You didn't speak with either man. You didn't even see them. You simply imagined each man. And yet you formed an assessment of each man.

As stated throughout the course—and through all our work—we never ask anyone to do or say anything that we do not do or say. Although I cannot speak for my partners, I will write down the thoughts that would have crossed my mind about both Jim and Tom.

- » Both men lack discipline.
- » Both men lack self esteem.
- » Both men eat non-nutritional food.
- » Both men do not exercise.
- » Both men are unhappy.
- » Neither man likes to exercise.
- » Both men likely have a lot of pain.
- » Both men have health problems.
- » Both men are probably lazy.
- » Both men likely struggle with emotional pain.

Write down how your assessment differs from what I wrote.

Write down how our assessments are similar.

Neither you nor I heard Jim or Tom speak. We don't know anything about them. Yet we made an assessment by looking at them.

- » What does what I wrote say about me?
- » What does what you wrote say about you?

Continue the exercise. Imagine that we asked Jim to tell us about his life. We don't say anything further. Just, "Tell us about your life."

Jim's Response:

There's not much to tell. I live alone in a trailer up the road. I had a job at Denny's. But the boss kept discriminatin' 'gainst me 'cause a my weight. I got hired as a busboy, and I was supposed to train to become a waiter. Instead, boss man said he needed help cleanin' up. He said that I'd have to switch from bussin' tables to being the janitor on the night shift. I knew what he was sayin'. He didn't want me around the customers. If I didn't like it, he said that he would have to lay me off. I chose to get laid off so I could get unemployment. If he didn't want me around the restaurant, I didn't want to be there. I don't need that kind of aggravation. Now you've heard Jim speak. He responded to a question. You watched his body language as he spoke.

- » Describe how Jim's response to the question changed or confirmed your initial assessment of Jim in the exercise.

Now we ask Tom the same question. "Tom," we say, "Tell us about your life."

Tom's Response:

I'm the luckiest man on earth. You're not going to believe it when I tell you this, but here's the truth. I'm 28 years old. When I was 26, I stopped at a red light. Just then, a drunk driver in a huge pickup slammed into me. He was driving about 40 miles an hour. Then, bam, he just hit me! I could've been killed. The doctors told me that I would never walk again. They had me in a full body cast for nine months.

I used to be a competitive body builder. Without exercise, and with all the hospital food and medications, all my muscle turned to fat. While lying in the hospital bed, my weight blew up to 450 pounds. Can you believe it? Despite doctors tell-

ing me I would never walk again, I refused to give up. There was no way they were going to keep me in that hospital bed forever.

Although I could hardly move, I started keeping a journal. I thought about steps I could take to overcome my condition. I knew I could do it. I just had to focus, to stay disciplined. I've been disciplined before and I could do it again. So I started reading books about nutrition. I quit eating the heavy carbohydrate diet of hospital food, cutting out all deserts. I asked the food service people to bring me vegetables and protein. They liked my spirit and helped. Then, I started to double up on the physical therapy. Other people didn't like physical therapy. But I knew that exercise would be key to my getting up and about. When I grew stronger, I tripled up on the physical therapy.

I recorded every step of the journey in my journal. Take a look. You can see the way I recorded the number of pages I read each day and all that I learned. You can see that I exercised every day, increasing the time commitment as I grew stronger. You can see what I ate every day.

Only nine months have passed since I got out of the bed for the first time. I've dropped 100 pounds. Now that I can run and swim, I've set a new goal. I'll lose an average of 20 pounds a month for the next five months. If all goes according to plan, I'll be at 250 pounds before the end of the year. Then I'll incorporate weight training into my routine again. I'll be back down to 200 pounds in no time. Watch me! I can do it.

- » Describe how Tom's response to the question changed or confirmed your initial assessment of Tom in the exercise.

If you're like me, you will realize that your assessment of Tom was totally off base. Instead of being a lazy, undisciplined, unmotivated person, he had extraordinary motivation and discipline. He could be a role model, an inspiration to others.

The exercise suggests that we as human beings make observations and assessments. It's part of our human nature. Judicial bias may be conscious or unconscious, but all defendants would be wise to anticipate that it exists.

It's even wiser to take action steps to overcome.

Even hostile judges appreciate those who adhere to a pursuit of excellence. They have been pursuing excellence for their entire lives. When someone else exhibits the same traits or qualities, they admire it. They do not expect to see that pursuit of excellence in criminal defendants.

- » What does a pursuit of excellence look like?

Look back to the case of Tom above.

- » What did Tom do to differentiate himself from Jim?

Jim	Tom
Blamed others for his problems.	Took full responsibility.
Saw himself as a victim.	Saw himself as an agent of change.
Wanted to wait until things got better.	Wanted to make things better.
Refused to take responsibility.	He pushed himself to do better.
Spoke in lazy English.	Took pride in his accountability journal.

- » In what ways is the record that you're building similar to what we saw in Jim?
- » In what ways is the record that you're building similar to what we saw in Tom?

An accountability journal will persuade a judge that you're different from every other defendant that comes before the bench. Most defendants outsource all decisions to their attorneys. They expect the defense attorney to write a dazzling sentencing memorandum. Since the defendants have never read a sentencing memorandum before, the legal jargon may make a favorable impression. It may even convince them that they're about to get a great deal.

Yet judges read sentencing memorandums all the time. Many of those pleadings are boilerplate, citing extensive amounts of case law that the judge doesn't need to read. It's safe to say that judges know quite a bit about the law, and they don't need or like fancy lawyers from the big city trying to educate them. Arguments

over case law are to judges what children fighting over broken toys are to parents: unnecessary racket.

On the other hand, judges don't know much about the personal characteristics of defendants. If we begin from that premise, we can understand how valuable an accountability log can be to help bring the judge a better understanding of the defendant. Hostile judges may appreciate the time and energy a defendant takes to walk him along the path to reform, to remorse. An accountability log is like a game plan. Use yours to show the methodical steps you took to change your life.

- » What are you doing today to make the people you meet in the future believe in you?
- » What was the impetus for your change?
- » Why is your life and thought pattern different today from what it was one year ago, three years ago, five years ago, or ten years ago?
- » How will your life be different in one year, three years, five years, or ten years?
- » What plans have you made that will take you from where you are today, to where you want to go tomorrow—or at some point in your future?

Your accountability log should show these well-laid plans. They should show clear parameters for success. As your judge reviews your accountability log, you will make a favorable impression upon him. Your work—far more effectively than your lawyer's eloquence—can take the edge off of a hostile, biased judge.

As we discuss through all Prison Professors coursework, we encourage you to adhere to a very specific strategy. To get the outcome you want, detail the why and the how of your transformation. Judges may be more inclined to believe that you're worthy of mercy if you follow the patterns of our Straight-A Guide:

- » Define your values.
- » Set clear goals.
- » Show that you're making a 100% commitment to success.
- » Set aspirations that your judge will respect.

Let your accountability log show the incremental action steps you've been taking, and that you'll continue to take. Your accountability log should show the methodical steps you've been taking to grow and to reconcile with society.

» What was the impetus for your change?

What are you doing, or what have you done to overcome an anticipated statement from your prosecutor:

» "Your honor, the defendant is only sorry because he got caught."

If you're authentic, you can show your pathway to change. Reveal the date that you made the decision to pursue a different life. And make sure that everything you say or write harmonizes with the life that you're living. Some defendants say all the right things. Yet their actions say something entirely different.

Take the case of Anthony. He built a career as a motivational speaker and business consultant. While I served time in prison, Anthony came to visit me. He asked me to assist with his preparations for sentencing. I offered him the same advice that our team offers through the Straight-A Guide Sentence Mitigation Course. I especially emphasized the need to document the journey. Yet Anthony failed to get to the heart of the message, which was to hold himself accountable and live authentically.

Anthony's challenges with the law began when he had computer problems. He took his computer into a store to have it repaired. When they ran a diagnostic scan to look for viruses, the technicians found more than 1,000 pornographic images. Many of those images involved underage girls. The technicians called the police and they arrested Anthony. He was convicted in federal court.

The nature of Anthony's crime exposed him to 20 years in federal prison. His sentence-mitigation strategy included a well-documented journal that showed all the steps he took to change his life. It included a daily journal of everything he did to control the impulses that derailed his life. He sought counseling, paid for inpatient treatment, and he submitted many character-reference letters. All those efforts contributed to his receiving a term of 135 months in federal prison.

Yet the story didn't end there.

One of the victims called prosecutors to ask about the outcome of the sentence. The victim expressed disappointment that the sentence was so lenient. The prosecutors were surprised, considering that she ostensibly wrote a two-page letter asking for leniency. The prosecutors investigated and they learned that Anthony fabricated several facts in the package he submitted.

The judge called Anthony back into court and resentenced him to 20 years, the maximum sentence allowable by law.

So take caution when creating accountability logs that detail a pathway to reconciliation and remorse. Do not write words that can be discredited so easily.

Randy, for example, put an amazing sentence-mitigation package together. He pleaded guilty to charges of fraud. Then Randy wrote extensively about how books he read influenced him to change. He wrote about what he learned from those books, and how he took that advice to set steps that would make things right. He documented every step of the way.

Prior to sentencing, Randy presented a package of more than 200 pages. His table of contents detailed all the steps he has taken to transform his life, including daily journal entries.

At sentencing, the judge commented on the package, saying that he followed the chronicles of transformation with great interest. Then the judge dropped some bombshell questions on Randy:

- » What kind of car do you drive?
- » How much are you paying in rent?
- » Why does your business profile identify you as Arthur?

The judge said that the mitigation package Randy submitted was so good that he had been contemplating giving Randy a term of probation. But when the prosecutor responded with more detail, and Randy confirmed that he had been leasing an Aston Martin sports car, that he lived in a luxury beachfront condo, and that

he was doing business under an alias, the judge sentenced Randy to 18 months in prison.

Sentence-mitigation strategies can help defendants. But the defendants must build records of authenticity to get the best results.

Accountability logs can keep a person on the right track.

1. Describe the moment that you made a change in your thinking patterns for the better.
2. Reveal the influence behind that change.
3. How did you go about building a plan that would lead you to becoming the person you aspire to become?
4. What timelines did you put in place?
5. In what ways have you been able to stay consistent with those timelines?
6. What have you learned from the work that you've been doing?
7. Where will your plan take you in five years?
8. How will your accountability log prepare you for a law-abiding life?
9. In what ways does your accountability log show your empathy for the victims of the case?
10. In what ways does your accountability reflect your understanding of the case?

8. Straight-A Guide Awareness

If you've been following along sequentially, you've worked through seven lessons of our Straight-A Guide program. These were the same methodical steps that carried me through 26 years in prison. More importantly, these steps helped me to get out of prison with my dignity intact, and with opportunities to thrive.

Every person on our team at Prison Professors has had a great experience after going through a challenge from the criminal system. And we know that any person that served time alongside of us could have had a similar result.

People can advance prospects for a better outcome if they stay aware of opportunities, and they sow seeds that will make others aware of the reasons why they're worthy of consideration for leniency—or for higher levels of liberty, at the soonest possible time.

For that reason, we offer this eighth lesson in our Straight-A Guide: Awareness.

At this stage, participants should have a clear strategy of how to influence stakeholders in the system. An effective mitigation package begins with open-ended questions that will accomplish two objectives:

1. It will make the defendant more aware of opportunities to make him appear more humane, and less criminogenic.
2. It will make the judge aware of personal investments the defendant has made to reconcile with victims and with society, differentiating him or her from other people that come for sentencing.

At Prison Professors, we've published more than 1 million words of instruction, and more than 1,000 videos to help people understand the steps to take. In the end, each defendant must do the work—or bring someone on the team who can do the work.

Those who've gone through each of the lessons in this course will have had opportunities to respond to hundreds of questions. In this module, we're going to tie those questions together.

Remember that good sentencing advocacy requires a full exposition of all factors in the defendant's life. The more a defendant can explain influences leading to the point at which the crime took place, the better. It's especially helpful to show what the defendant learned from the experience. Build themes in the defendant's life that are highly personal. To a stakeholders, these themes may make the defendant appear more humane, and less like an undesirable criminal.

Rather than concluding with 10 questions, through this module on awareness, we're going to offer 20 questions. Each question will offer brief commentary for participants to consider. If the defendant's mitigation package does not address each issue, then use this program to adjust.

1. In what ways does your package discuss your role in the offense?

Remember that your sentencing judge will be accustomed to people who prevaricate or minimize their involvement. Judges will look at such statements as being unworthy of mercy. Any defendant who fails to accept full responsibility may be better off to refrain from submitting anything. From a judge's perspective, pleas for mercy require a full acceptance of responsibility.

2. What does your mitigation package reveal about accomplices?

It's crucial to remember that you're going through this exercise with one objective: You're trying to influence the judge. The judge has certain beliefs about law-abiding, contributing citizens. Someone who aspires to live as a law-abiding, contributing citizen, would always cooperate fully with law enforcement. That means they would reveal everything they know about the crime, and everyone who was involved. With a mitigation package, then, a defendant must draw a line in the sand. The package must offer definitive proof that the defendant is breaking all ties with crime, and forging strong ties with law-abiding, contributing citizens.

3. What role did drugs or alcohol play in the offense?

This is a tricky factor. On the one hand, defendants sometimes fret that if they reveal an accurate history of substance abuse, federal judges and others will consider them a higher risk of reoffending. On the other hand, a well-framed mitigation package may show that abuse of drugs and alcohol led to the criminal behavior. Resolving substance abuse problems, therefore, would make the defendant less vulnerable to influences that lead to criminal behavior. It's tricky because we do not want to excuse or justify the criminal conduct. Defendants must be careful to assess every sentence in the package to make sure that there isn't any shifting of blame.

4. Does the mitigation package suggest that a desire to provide necessities for his family—for himself—motivated or influenced the defendant to engage in crime?

This approach suggests that the defendant is basing his plea for mercy on hardship. But be careful. Prosecutors will cite other people with needs who did not break the law. Anticipate that the prosecutor will counter any request for mercy by contrasting the defendant's criminal behavior with countless other people who chose to live in compliance with the law. Rather than committing crimes, those people sought assistance from charities, agencies, churches, and schools. A defendant must anticipate every argument the prosecutor will make, and build a case that will undermine prosecutorial efforts to place the defendant in the worst possible light. Defendants can reframe this argument in a manner that suggests he has poor judgment, or an inability to cope. Perhaps he needs mental health treatment, or intervention. Always take full responsibility.

5. Does the defendant claim that he believed the conduct was legal?

Consider this the "Scott Tucker" approach. We wrote about Scott Tucker in a previous module. Scott spent millions of dollars on legal opinions to justify the massive payday-loan business he created. Scott exercised his right to go to trial. A jury convicted him within minutes. Following his conviction, he continued to make a case that his conduct was completely legal. The judge excoriated Scott, citing his lack of remorse. Netflix featured Scott on episode 2 of the series "Dirty Money," which portrayed Scott harshly. Neither judges nor juries are sympathetic to pleas for mercy when a defendant claims ignorance of the law.

6. Does the mitigation package make any claim that the victims provoked the criminal episode?

Nothing will bring more danger to a mitigation effort than to claim that a victim is responsible for the criminal wrongdoing. Be certain that the mitigation package emphasizes empathy with the victim, and a willingness to reconcile.

7. Does the mitigation package claim that no one got hurt from the crime, or that only consenting adults were involved?

Such a statement is toxic to the criminal justice system. By using that strategy, claiming that since only consenting adults were involved in my crime, I exposed myself to the wrath of the criminal justice system. My judge slammed with a 45-year term because I failed to accept full responsibility. I also failed to acknowledge the magnitude of my errors. Remember how judges think. As citizens, we have a duty and a responsibility to act in accordance with the law. We cannot break laws, claim that the laws were not relevant., then ask for mercy.

8. Does the mitigation package claim that the degree of property loss isn't accurate?

Leave such statements to the defense attorney. Defendants cannot make such claims without appearing unrepentant. If a defendant acted with full intent to violate laws, prosecutors will ask the system to punish that person. Regardless of whether the loss occurred, anticipate that prosecutors will urge the court to sentence the defendant for the harm to which he exposed victims because of his nefarious, or selfish intent. Make sure the sentence-mitigation package leans toward remorse, and avoids excuses or justifications.

Remember the case of “Pharma Bro” Martin Shkreli. His claim that he should not be sentenced harshly because investors did not lose money; on the contrary, they made money. But U.S. District Court Judge Kyo Matsumoto rejected those arguments. In a written decision, the judge found Shkreli should be penalized for losses of \$10.5 million because he made risky transactions without permission from his investors.

9. Does the defendant claim that the judge should be merciful because of the unlikelihood that the defendant will engage in the same type of criminal behavior?

This factor may address a low likelihood of recidivism. Yet it doesn't address society's need to punish. A sentence mitigation package should not endeavor to tell the judge how to sentence. Rather, defendants should write the package in such a way that shows what the defendant has learned from the episode and all of the events that unfolded. He should show the influences that led to his behavior, without offering excuses. He should humanize his behavior, leading the judge to an organic conclusion that mercy may be appropriate in this case.

10. Does the mitigation package put too much emphasis on the defendant's good character, habits, education, or social status, suggesting that why he is unlikely to commit another crime?

Although these factors may appear favorable on the surface, be cautious of coming across as arrogant. A defendant does not do himself any favors if he leaves the judge with the impression that he does not appreciate the severity of the crime, or thinks that he is above the law. Also, anticipate that a higher social standing or education, theoretically, could make a defendant more culpable because of his privilege. Make sure the mitigation package does not diminish a defendant's appreciation for the severity of the offense, or the victims that suffered because of the crime.

11. Does the mitigation package sufficiently address the defendant's employment history?

Never underestimate the value of living as a tax-paying citizen. If a defendant has a long history of reliable employment, build a case that documents such contributions to society. Strive to include letters of recommendation that will show the efforts a person has lived as an honorable member of society. At the same time, add commentary to show humility and express shame for behaviors that led to criminal misconduct.

12. In what ways does the mitigation package reveal the defendant's general emotional condition and mental health?

In some cases, a defendant can self-diagnose, showing how hard he has worked to introspect. A good mitigation package will show the impetus for change and self-reflection, along with evidence of the work that the defendant has invested to overcome character flaws. Yet in some cases, it may make sense to hire a professional who can conduct an expert assessment. A defendant must exercise good judgment here, determining the best way to build a record that would show he fully appreciates the magnitude of the crime, and that he is doing everything within his power to make things right.

13. How does the mitigation package address the defendant's educational background, his home life, or his sobriety?

If it's possible, include documentation to show courses completed and credentials earned. Defendants can strengthen their petitions for mercy when they build arguments showing that they have a history of work, of living in compliance with society's expectations. If the defendant hasn't earned credentials, then the defendant should address this fact, describing how a lack of education influenced his thinking and his behavior. Build a narrative that will help the judge grasp a better understanding of the person he is about to sentence.

14. What does the package say about the candidate's likelihood of returning to the community as a contributing citizen?

The essence of the mitigation package should show that the defendant identifies with the pain that he or she has caused to victims, and that he or she is working to make things right. Yet a package should also show a defendant's commitment to live as a law-abiding, contributing citizen. That doesn't mean the defendant should speak about saving the world by working with at-risk kids, or volunteer in rehab centers. Judges want to know that the defendant has taken steps to further the possibilities of being able to overcome the conviction and earn a living as a contributing citizen.

15. In what ways does the mitigation package address why the defendant failed to live in accordance with the law, and what he's done about it?

Obviously, the judge is familiar with statements from defendants who say "I should have known better." When judges are about to sentence people to prison, they expect defendants to say anything. It's much more important for the mitigation package to address what the defendant has learned from the offense. If the defendant can pinpoint the influences in his life that led him astray, the judge may be more inclined to believe that the crime was an aberration—or if not an aberration, the defendant has changed in ways to lead a values-based, goal-oriented life. We encourage defendants to indicate that they voluntarily enrolled in the Straight-A Guide Program and learned a great deal by advancing through the extensive self-study course.

16. How does the mitigation package show that the defendant has a strong possibility for successful treatment?

If the defendant worked through the Straight-A Guide program, the defendant will offer the judge tangible evidence of his capacity to work. No two mitigation packages would be the same, because each defendant's responses would be highly personal and they would be replete with documentation. Judges respect that type of self-study, that type of introspection. Judges know the length of time necessary to reflect and write. A solid mitigation package provides incontrovertible evidence that the judge can hold, see, read, and believe. The package would represent more than words on a page. The package would show a blueprint for life.

17. Can the defendant offer evidence from experts that show solid prospects for rehabilitation or lawful employment?

If the defendant works through the Straight-A Guide program, and uses the team at Resilient Courses, the team can provide a certificate and a letter attesting to the defendant's work ethic. Since members of the Resilient Courses team represent exactly what every tax payer wants our prison system to produce, judges cite our co-founders as experts. You can see testimonials from judges on our YouTube page. Our team can even film or record an interview that you can provide to the

judge, showing how and why we validate defendants as excellent candidates for ongoing success.

18. What reason does the judge have to consider an alternative sanction, such as probation or community service?

A solid mitigation package will include research about possible alternative sanctions that include probation and community service. Although some statutes prohibit noncustodial sentences, judges have far more discretion since the U.S. Supreme Court issued its opinion in the Booker case, back in 2005. Even if non-custodial sentence isn't feasible, the mitigation package should offer suggestions that could motivate the judge toward mercy. Cases are all different because people are all different. Yet when framing the mitigation argument, a defendant must begin from the perspective of the judicial system, meaning there should not be any suggestion that the judge may construe as "minimizing the severity of the offense." Offer reasons that will lead the judge to construe that a merciful sentence is appropriate, without telling the judge what to do or what is just.

19. If the defendant confessed and cooperated, what does the mitigation package suggest prompted such a move?

The mitigation package should reveal precisely what triggered the defendant to begin cooperating with the government. In most cases, defendants plead guilty and cooperate for self-serving reasons. Think of the prosecutor's version of events, and the judge's interpretation. Those stakeholders may believe that the defendant isn't truly remorseful. They believe that the defendant pleaded guilty and cooperated because he feared of a lengthier sentence if convicted at trial.

Such a position may result in a sentence that is consistent with the plea agreement. Yet defendants who want to persuade the judge to impose or more lenient sentence will invest time, energy, and resources to build a compelling case of remorse. Provide a detailed, elaborate description of events or influences that resulted in change of thinking.

In *Earning Freedom*, for example, I wrote about reading Socrates in my jail cell. Exposure to philosophy gave me an entirely new perspective on life, and the

new perspective would guide my every thought through the 45-year prison term that I served. Defendants who incorporate such background into the mitigation package may position themselves for a more lenient sentence. They must help the judge see and appreciate the magnitude of change in thinking patterns.

20. In what ways does the defendant's behavior after the time of arrest show that he has learned from this offense?

We cannot underestimate the value of this point. Let's contrast Jeremy with John, two clients our team worked with in the past. Both men pleaded guilty to financial crimes. Both men had advanced university degrees prior to their criminal convictions, and both men cooperated with authorities after their conviction. Both men passed about 12 months in society from the time they were caught until the time they were sentenced.

During those 12 months, Jeremy supported himself by working long hours as an Uber driver. He lived modestly and humbly, doing everything possible to scrape by. At sentencing, the judge commented on Jeremy's humility and willingness to do whatever was necessary to live in compliance with the law, even though the job was less prestigious than the role he previously held as a physician. John took a different path.

Prior to his arrest, John worked as an investment advisor. After his conviction, he lost his license to trade securities. Instead, he launched an online business to teach others how to make money in the stock market. Yet rather than using his real name, John used an alias so that others would not know about his conviction for fraud.

The judge cited John's behavior as evidence that, despite his guilty plea and cooperation, he was failing to live honestly, as a truthful man. Although John wasn't breaking the law, the judge had an unfavorable view of John's activities and sentenced him to six months longer than the prosecutor requested. For that reason, we urge defendants to think carefully about how their mitigation package will reflect the defendant's decisions after arrest.

21. What does the mitigation package reveal about restitution?

Remember that actions speak louder than words. If financial loss is a factor in the case, consider making an effort prior to sentencing to pay toward that loss. We've seen defendants move the court by making modest payments toward restitution.

Any effort that will differentiate a defendant in a positive way advances prospects for mercy. We encourage defendants to make deposits with the defense attorney that will go toward restitution, and to document those payments in the mitigation package.

9. Straight-A Guide Achievement

In the ninth component of our Straight-A Guide, we talk about the importance of celebrating achievement. Every person on our team at Prison Professors understand that working through a challenge requires a series of small, incremental accomplishments. Those little accomplishments open new opportunities. To stay motivated through the long and arduous journey of recalibration, we've got to celebrate the small achievements.

They can lead to collaborative relationships. We've got to build a series of accomplishments that will make it easier for other people to advocate on our behalf.

- » Think about the steps you can take today to help your lawyer obtain the best possible outcome for you at sentencing.

There are several ways to assist your lawyer in creating the best possible sentencing mitigation package. First, a person facing a sentencing hearing needs to understand how federal sentencing works.

Federal sentencing involves a multistep process. We offer more content on federal sentencing through our consulting menu at Prison Professors. Check out the following list of articles and explanatory videos:

- » Topic: Sentencing
 - ◇ <https://prisonprofessors.com/consulting-menu/>

Sentencing Summaries:

A sentencing judge's discretion to impose a sentence is restricted by the statutory minimum and maximum penalties. Take mail fraud, for example, which prescribes a statutory minimum sentence of zero years and a statutory maximum of 20 years imprisonment. 18 U.S.C. § 1341. Under this statute, a judge can impose almost any sentence between no imprisonment and up to 20 years. The judge can't impose a sentence beyond the statutory maximum of 20 years without it being an illegal sentence, which would likely be reversed on appeal.

Sometimes the federal statute contains a mandatory minimum sentence. If a person is convicted of possessing over 1 kilogram of heroin with the intent to distribute, then that person faces a mandatory minimum sentence of 10 years and up to life in prison. That means, absent the prosecutor filing a motion for a defendant's cooperation under 18 U.S.C. § 3553(e), the sentencing judge must impose *at least* a 10-year sentence.

» But is a judge's discretion between the statutory minimum and maximum sentence unguided?

No, because in the federal system, the Court must also consider the advisory U.S. Sentencing Guideline range before imposing a sentence. The Sentencing Guidelines manual includes more than 500 pages, and it prescribes a method for determining what sentence the judge should impose.

How the Guidelines Work:

After a defendant is convicted, a federal probation officer conducts a presentence interview of the defendant. Counsel for the defendant must be given notice and the opportunity to attend the interview, and a defendant may invoke their constitutional right to remain silent during the interview, although failure to provide truthful information about the offense of conviction may result in denial of credit for acceptance of responsibility at sentencing.

If you're working through course with expectations of facing a sentencing hearing, you should not go to this interview without first preparing for the interview with your lawyer, and many lawyers attend the interview with their clients.

At the presentence interview, the probation officer will ask you questions about your offense and any related uncharged criminal conduct, criminal history, personal history (including family history and substance abuse history), financial circumstances, and numerous other issues potentially related to the court's sentencing decision.

Although it is incumbent on your lawyer to understand the presentence report interview, we often find that lawyers are unaware of how the Federal Bureau of Prisons ("FBOP") operates and how the lawyer (or the individual) must present certain information to the Probation Office for inclusion in the presentence investigation report ("PSR").

The primary example is the Residential Drug Abuse Program (RDAP). For those convicted of qualifying offenses, a prisoner taking RDAP can get up to a year off their sentence. But lawyers are not necessarily thinking about what happens after their client is sentenced, and their focus is often on getting the shortest sentence possible.

So many lawyers don't realize how important it is that any history of drug or alcohol use is well documented in the PSR. When the FBOP decides which prisoners will get into the RDAP program, it often relies on the PSR.

After the Probation Office finishes the interview, an Officer prepares a PSR that provides the Sentencing Guidelines calculations, including the advisory Sentencing Guidelines range that is based on a detailed scoring chart of both offense characteristics and criminal history. The advisory Guidelines range is the starting point for any judge about to impose a sentence.

The PSR contains not only information about the offense and offender but also a calculation of the relevant Sentencing Guidelines Range, and any bases that may exist for imposing a sentence outside of the applicable range.

The probation department must provide the defense and prosecution with a copy of the PSR at least 35 days before sentencing and must submit objections within 14 days of the sentencing hearing. The PSR is a confidential document that may

not be disclosed to the public and must be filed under seal. A Probation Officer also submits to the court a confidential sentencing recommendation.

The PSR will also play an influential role in the BOP's prison classification, and in deciding eligibility for various programs, including the Residential Drug Abuse Program.

Prior to sentencing, both the prosecution and defense counsel are allowed to file sentencing memorandums. The defense usually argues for a downward variance from the advisory Guideline range. The prosecution usually argues for a guideline range sentence. In the federal system, both sides will ask for a sentence of a particular number of months.

The sentencing memorandum that a defense attorney provides may be the last document the judge and their clerks will read before the sentencing hearing. Our team at Prison Professors encourages people facing a sentencing hearing to insist upon reviewing the sentencing memorandum before the attorney files the document.

Although the memorandum will include case law, it will also include details about the defendant. Since the defendant will know much more than the attorney about his or her past, the defendant should collaborate, or offer input, that may help the attorney's advocacy at sentencing.

If you're facing a sentencing hearing, and the lawyer balks at a request for a copy of the sentencing memorandum, that could be a red flag. The lawyer might be waiting until the last minute to prepare the memorandum.

For this reason, we encourage people to request a copy of the memorandum early. Get an ETA from the lawyer, and then hold the lawyer accountable.

The sentencing hearing takes place in the courtroom. To get a better idea of what to expect, a person may want to visit a few sentencing hearings in advance. Or a person may read our reviews of sentencing hearings that we've attended. Those reviews are available on our website at Prison Professors.

Most sentencing hearings are rather formulaic in how they take place. First, the judge will resolve discrepancies that the prosecution and defense may have with the PSR. The defendant and counsel for both parties are allowed to provide input. The judge will make a finding on each point.

A judge may allow the parties to call witnesses and present evidence about disputed facts or other matters. Some lawyers also choose to prepare sentencing mitigation videos that are played before the judge.

The defendant may also speak (called allocution) before the judge imposes a sentence. Allocution is hugely important because the judge wants to hear from a person directly. Some factors to consider thinking about before allocution include:

- » What are your best accomplishments?
- » In what ways do you identify with the victims of the crime?
- » What have you learned from this experience?
- » What steps have you taken to make things right?
- » Why should the judge have assurance that you will not offend again?
- » What are your best attributes?
- » What are your short- and long-term goals?
- » Why are you a better person now than when you committed the offense?
- » How would leniency promote your and other people's respect for the law?
- » What is a just punishment for your offense and why?
- » Will giving you leniency cause other people not to break the law as you did?
- » Why will giving you leniency protect the public from further crimes by you?
- » Do you need educational or vocational training?
- » How would leniency provide you educational or vocational training?
- » Do you need medical care and can the FBOP provide that care?
- » How would leniency provide you with medical care?
- » What if anything would you say to the victims of your offense?
- » Why should the Judge give YOU a break?

In determining the proper sentence, Congress directed sentencing judges to consider a number of goals. Title 18 United States Code Section 3553(a) provides the goals of sentencing:

Factors To Be Considered in Imposing a Sentence. — The court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection. The court, in determining the particular sentence to be imposed, shall consider—

- » the nature and circumstances of the offense and the history and characteristics of the defendant;
- » the need for the sentence imposed—
- » to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;
- » to afford adequate deterrence to criminal conduct;
- » to protect the public from further crimes of the defendant; and
- » to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;
- » the kinds of sentences available;
- » the kinds of sentence and the sentencing range established for—
- » the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines—
- » in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the Sentencing Commission pursuant to section 994(a)(3) of title 28, United States Code, taking into account any amendments made to such guidelines or policy statements by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28);
- » any pertinent policy statement—
- » issued by the Sentencing Commission pursuant to section 994(a)(2) of title 28, United States Code, subject to any amendments made to such policy statement by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28); and
- » that, except as provided in section 3742(g), is in effect on the date the de-

defendant is sentenced.

- » the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and
- » the need to provide restitution to any victims of the offense.
- » These § 3553(a) are the goalposts of sentencing and they provide a sentencing judge with wide discretion to fashion any kind of sentence whether within the Guideline range or a downward or upward variance from the Guideline range.

As you can see, the § 3553(a) sentencing factors are very broad, and you can assist your attorney in crafting the sentencing memorandum if you create a list of facts or witnesses who could write a letter or testify about the sentencing factors.

For example, even if your crime is one that carries significant penalties (such as possession of child pornography), you can still emphasize “the history and characteristics of the defendant.” 18 U.S.C. § 3553(a)(1). That means your history of good deeds or character witnesses, and things like childhood trauma, drug and alcohol addiction, divorce, or the death of a child.

Even if you don’t have any mitigating personal characteristics, you can also argue that your offense caused less harm the similarly situated offenders. And sometimes your lawyer can argue that the Guidelines are unduly harsh and therefore the judge should not use them as the benchmark in imposing a sentence.

Here are some other factors that could help your lawyer in presenting a mitigation case:

- » Any developmental hardships such as alcohol fetal syndrome or ADHD
- » Bad relationship with parents or siblings, or any abuse experienced as a child
- » Exposure to toxins
- » Early death of parents
- » Medical or mental health issues (including the medications you take)
- » Drug, alcohol, pornography, or gambling addiction
- » Military history especially service in combat
- » Physical injury

- » Prior juvenile or adult criminal history; child support or bankruptcy proceedings
- » Socioeconomic class
- » Any volunteer or community work and charitable donations
- » Type of employment
- » Battered women syndrome
- » Age
- » Voluntary disclosure of crime and/or cooperation
- » Think about how your lawyer could prove any of these factors.
- » Do physical documents or records prove socioeconomic class?
- » Do you have factors, such as a mental health issues, that a doctor's testimony could prove?

After the judge orally pronounces sentence, the judge must complete two documents:

- » The Judgment Order, and
- » The Statement of Reasons.

Those documents memorialize in writing what the judge orally pronounced in court. The judgment specifies the sentence, any term of supervised release and the release conditions, and the financial penalties. The judgment is a publicly accessible document.

The Statement of Reasons, however, is a sealed part of the record. It provides information about whether the judge's sentence was within or outside of the applicable Guideline range and the specific reasons for a sentence imposed outside the range. This document can prove enormously helpful, and a defendant should work to influence what the judge writes in the Statement of Reasons. For example, if requesting a judge to recommend a specific prison, the judge may ask the BOP to let him know the reason if the BOP did recommend the specified prison. Or the judge may ask in the Statement of Reasons that the BOP admit the defendant into the RDAP program. Such statements can prove hugely beneficial.

The sentencing judge must also inform the defendant about appealing the sentence. A defendant must file a single page motion called a Notice of Appeal. The

Notice of Appeal must be filed within 14 days from the day the judgment was entered. The Notice is a jurisdictional document, meaning that if it is not filed on time, the court of appeals has no jurisdiction to hear an appeal.

A defense attorney must file a Notice of Appeal if you request it. As a precaution, we encourage defendants to request that their lawyer file a Notice of Appeal in writing, in an email.

Some of the issues that can be raised on appeal are when a sentencing judge:

- » Wrongly applies the Sentencing Guidelines calculations
- » Wrongly imposed an upward departure or variance from the advisory Guideline range
- » Did not consider a key mitigating factor that your lawyer presented
- » Failed to properly explain the sentence it imposed
- » Imposed a sentence that created an unwarranted disparity between similarly situated defendants
- » Imposed an unreasonable sentence

Here are some questions that you may consider when preparing your sentence-mitigation package:

1. Describe steps you've taken to show what you've learned from this offense.
2. Describe your best attributes.
3. Describe your short-term goals.
4. Describe steps you've taken to show your commitment to achieving those short-term goals.
5. Describe your long-term goals.
6. Describe how your short-term goals relate to your long-term goals.

7. In what ways did preparing for sentencing prepare you for the rest of your life?
8. What steps did you take over the past 30 days to reconcile with the victims of your offense?
9. Help us understand the influences that led to your changed perceptions.
10. When your judge sees your mitigation package, what would you expect him to learn about you?

10. Straight-A Guide Authenticity

On behalf of our entire team at Prison Professors, I want to congratulate you. Facing a challenge from the criminal justice system is not easy. Preparing for best outcomes while knowing there may be a potential loss of liberty can bring duress. It's not easy.

If you've worked through this course and responded to all the questions, you will have done everything within your power to build a new narrative, a new story. That story should become the focal point of your sentencing advocacy.

- » Your package will help your lawyer advocate you better during the sentencing hearing.
- » It will help your judge see reasons to avoid imprisonment in your case, or to reduce its severity.
- » It will also help you once you enter the prison system, and you must begin working to advocate for yourself.

To be authentic, you must provide the detail. As we discussed earlier, you must also show your work. You must think about your self-advocacy at every stage in the journey. The steps that you take today will bring enormous benefits later.

Your mitigation package should address every circumstance that influenced your character and behavior related to the offense. Those circumstances can stretch back to childhood. For example:

- » “The trauma of having to deal with the wrongfulness of my actions has caused me to reflect. I’m looking back, wondering what influences led to my thinking it would be okay to violate laws.

I remember one instance, when I was six or seven. My uncle brought me to a large sporting goods store. We were going fishing and we were purchasing gear, like a tackle box and fishing hooks and sinkers. He opened the tackle box and there were some compartments. I remember my uncle stuffing a few packages of sinkers and hooks into the hidden compartments.

As a young, innocent boy does, I asked him: “But Uncle Joe, what if the clerk doesn’t see the hooks and sinkers when we’re checking out?”

My uncle told me to keep quiet. If the sales clerk doesn’t see them, and he checks out, that’s his fault not mine.

Those were the types of influences that shaped the way that I thought. From early childhood, the people who were charged with grooming me or helping me to understand right from wrong sent me a mixed message. On the one hand, they told me that it was important to be honest. Their actions, however, told me that if we didn’t get caught, we could still masquerade as if we were honest.

I learned lessons from those types of experiences. They made an impression upon my young mind. And as I grew older, I too believed that it was okay to cheat, to mislead, or to do anything possible to bring me an unfair advantage.

Contrast:

Let me contrast that experience with what I heard from my wife, Carole. She told me a story about when she was a child walking through a hardware store with her father. As they were walking out of the store, Carole examined the receipt. They

were getting into the car when she noticed that the clerk had not charged her father for all the items they purchased.

Her father looked at the receipt and realized she was right.

He got out of the car, went back to the clerk, and insisted that the clerk charge him for the missed item.

My wife told me that as they were walking back to the car the second time, she asked her father why he had bothered to go back inside when he had already received the item for free. Her father said it was the honest thing to do.

Carole told me that she pointed out to her father that the hardware store was a big company, and no one would even notice.

Her father told her that maybe somebody would notice, maybe somebody wouldn't. But he didn't want the clerk to have her pay docked because of a simple mistake. Carole told me that examples like that made her feel proud of her father and influenced the way that she grew up.

By listening to her, I learned a lot about how our early experiences influence our thinking, our ethics, and our morality.

Had I learned those lessons as a young child, I would like to think I would have made better decisions.

As you can see, mitigation possibilities cannot be boilerplate. There isn't any such thing as "one size fits all." The only limit to the mitigation strategy will be imagination, time, and resources that you choose to invest. Help your judge see the influences that led you to become the person you've become. Also, help your judge see what you've learned from the experience.

Create a great story. Then let your story influence stakeholders who can influence your life. To build a great story, develop the backstory. Remember that everything makes sense in context. The context of the backstory may not excuse criminal

behavior, but it can certainly work to humanize a defendant. And by humanizing the defendant, we bring to life that statement:

“But for the grace of God, there go I.”

In other words, the probation officer, prosecutor, and judge may agree that if they had the same background as the defendant, they too may have made different decisions. Those different decisions can explain how the defendant fell into a pattern of behavior that violated laws. The essential element, however, is that the defendant has reflected on those past influences. Through the mitigation package, the defendant must show:

- » What he has learned about his decision-making errors.
- » That he understands the harm he has caused by breaking laws.
- » That he grasps the ways that his decisions or behaviors have caused victims to suffer.
- » That he has thought about steps he can take to make things right with those victims.
- » That he appreciates the need for law and order in society.
- » That he aspires to reconcile with others and to live as a law-abiding, contributing citizen.

Attorneys cannot persuade a judge that a defendant has changed his thinking patterns. That’s why judges say that they want to know more about the defendant. Defendants who build very solid mitigation packages put themselves in a better position to influence the outcome of their sentencing hearing—but also to influence the outcome of every aspect of the journey going forward.

Difficulty in Preparing Mitigation Packages:

Defendants who work toward preparing their own mitigation packages should understand the complexity. Good packages are not easy to prepare. If a defendant doesn’t know what relevance specific events have at shaping behavior, a defendant won’t know where to begin diagnosing the problem. Yet if a defendant retains an expert to help, the expert won’t know anything about the defendant’s life. The expert must interview a client at length. The expert must ask an infinite

number of questions. Each question will reveal something different, like revealing the following:

- » What are the client's strengths?
- » What are the client's achievements?
- » What are the client's support networks?
- » How did the client develop those strengths?
- » How did the client develop support networks?

The interview also will reveal what environmental influences shaped his behavior.

- » Are there any mental health issues we can uncover and elaborate upon?

Some defendants may not want to discuss these issues. They may not see the issues in themselves. Yet mental health issues are the very type of mitigating evidence that can lead to effective sentencing advocacy.

We must tell a story that helps stakeholders have empathy for a defendant. And good advocacy requires a strategy that uncovers everything.

Defendants who choose to pursue this path on their own should use every lesson in this module that we've created. We hope that you've read through each module and that you've responded to each question.

Best practice would suggest that you then repeat the exercise.

- » Have you responded to each question?
- » Have you written extensively?
- » Do your responses show, in every way, that you accept responsibility?
- » Do your responses show that you're identifying with the victims?
- » Do your responses show what you've learned?
- » Do your responses differentiate you from defendants who only think about themselves, their families, or what they have lost?
- » Do your responses present a compelling case that you'll never be involved with the criminal justice again as a defendant?

If you've done your job well with your sentence-mitigation package, the story you've created will make the judge understand you. In fact, your judge may even feel your pain without your saying that you're in pain. That is the art.

The Honorable John Kane, United States District Court Judge from the District of Colorado spoke to the federal defenders in his district on October 3, 2008. He said that defense attorneys should work to help judges understand the life story of every defendant. But the reality is that defense attorneys rarely know enough about the defendant.

As we've stated previously, defense attorneys may fight valiantly to get the best possible outcome for a defendant. But they will not necessarily be great listeners to the defendant. Instead, they will analyze case law, statutory law, and the charging instruments. They will assess whether the government has the power to prove offenses beyond a reasonable doubt. Then they will use their skills to analyze a defense strategy.

- » If your defense attorney has taken time to work closely with you as an individual, then you're in good shape.
- » Has your attorney spent hours listening?
- » Does your attorney know everything about your background and the influences that led to your offense?
- » Does your attorney know everything you've done to make things right?

Then you're in good shape. If you feel that your attorney doesn't know enough about you, then I encourage you to read the previous module where I wrote about working collaboratively with your attorney. Take matters into your hand and create a solid package that helps tell your story.

Video:

We have not written about the use of video in a sentence mitigation package. Yet video can be very effective—though expensive—to produce. A good video can evoke an emotional response. To create a well-crafted film, one that has the power to move a judge, you need a team that would include:

- » Writer
- » Director
- » Videographer
- » Sound editor
- » Film editor
- » Camera equipment
- » Audio equipment
- » Possible travel costs

The costs associated with producing a high quality sentencing video may be prohibitive for defendants. Yet those who can afford to produce an effective sentencing video should consider this tool. Videos may not be effective for all cases. Yet for some cases, they can really move the needle. Videos are especially helpful when a client has a compelling, credible story that a skilled videographer can tell in a visual, emotionally charged way. A good video must have the power to:

- » Create a story
- » Develop characters
- » Feature moving images that make a distinct impression upon any audience

The video should leave the judge with a compelling story that provides reasons to exercise mercy at sentencing. Arguably, there isn't any better way to tell a story than through film. Movies connect us. They shape the way we look at life, people, places, and issues. Good movies have the power to change the world, or at least, how we look at the world.

What is a good story? Well, a good story is one that the judge has not heard before. That means, when creating a video to use at sentencing, we must use moving pictures to help the judge see the realities of the defendant's life. We can't bore the judge with a talking head. We must keep the video powerful, with images. Instead of writing about the defendant's life, let the judge see the defendant's life. We've all heard the story that a picture is worth 1,000 words. If that's true, a good video is worth 1,000 pages.

With a good video, we can help the judge so much more than we can with written words. But if the video is too long, it can bore or distract. As a rule, the video

should last seven minutes, to a maximum of 15 minutes. But if you're going to submit a longer video, we highly recommend that you work with professional editors. That professionally produced video could cost more than \$1,000 per minute to produce—and it may or may not move the needle.

The story elements must build a strong case of empathy. In other words, the videographer must work with the writer to script the scene closely.

- » Will the scene, images, or dialogue make the judge feel something for the defendant?

You can't manipulate the judge, but you must make him feel. Find the story behind the story and use the backstory to give the judge a new perspective.

During sentencing, the judge wants to know about the defendant's character and credibility. We want a sentence-mitigation package to highlight the defendant, and not the crime. A good video will help the judge see the defendant in action. We must see the character doing something that shows him as a credible human being, the type of human being that the judge would want as a neighbor. If a film can accomplish such a task, then it's worth the investment to tell a story with moving pictures. If it cannot, then a written narrative may be sufficient.

If you choose to use video footage, make sure to put the video through the test. Show the video to others. Gauge their reactions. Listen to their responses. Then be scrupulous to learn from what they say, rather than defend what you were trying to accomplish. This type of editing requires many hours. To complete a video that lasts five minutes, a producer may need to invest 50 hours. Maybe more.

Each defendant must decide how much he or she wants to invest to create an effective sentence-mitigation package. Some defendants may have financial resources available to hire professionals. Others may not have financial resources, but they have time. The principles we've tried to teach through this sentence mitigation strategy can help.

What if the lawyer objects to a sentence-mitigation strategy?

Sometimes, lawyers want to coordinate everything. They like to be one-man-shows. I'm reminded of a cartoon that Jack Ziegler published in *The New Yorker*. I was in prison when I saw the cartoon, and I laughed because the cartoon reminded me of interactions I had with my lawyer.

As I recall, the Ziegler cartoon illustrated a desk in a high-rise office building. We saw the tops of NYC skyscrapers outside the window, suggesting a power office. On one side of the desk, we saw a serious looking professional with walls of books beside him. On the other side of the desk we saw the client. I'll paraphrase what I remember of the caption:

» “As your chosen autobiographical ghostwriter, let me state up front that if I want any input from you, I'll ask for it.”

Similarly, some lawyers do not want to hear anything from a defendant. But it is crucial for a defendant to remember the importance of the sentencing proceeding. In a sentencing proceeding, a defendant is about to make the biggest sale of his life. Liberty is at stake.

As a further resource, we encourage you to subscribe to our YouTube page at Prison Professors. You will find a play list called “Get Ready for Sentencing” and “Judge Advises on Sentencing Preparation.” If you watch those videos, you'll see how judges react to effective sentence-mitigation strategies.

If a defense lawyer rejects your efforts to introduce a sentence-mitigation package, we encourage you to show clips from those videos. We encourage you to ask your lawyer questions. Ask your lawyer why he wants to ignore what the judges advise in those video clips from interviews our team has done with judges. We also encourage you to share the previous module from this sentence mitigation workshop with your lawyer.

Ideally, you will have taken time to prepare a first draft of your sentence-mitigation package long before the presentence investigation meeting. Take time to edit the document and get it ready. Some packages may be presented in fewer than 10

pages; some may exceed 100 pages in length. Some packages may include video or audio files. Some packages may include books.

Every case is different. But the defendant who wants to do everything with his or her power to prepare for the best possible outcome will present a highly personal package for the judge to consider. That package should document the backstory, as well as the influences that led to change. We encourage you to cite literature. Cite role models. Cite all that you've learned from your reflections.

- » Should you need further guidance, we encourage you to use the resources that are available on our website at PrisonProfessors.com.

Through this package, we have given you the tools that we use to craft effective sentence-mitigation packages for the clients we serve.

We hope that it will serve you well. And if your lawyer gives you trouble, ask him the following questions:

1. What makes my case different from other defendants who appear for sentencing before this judge?
2. How have you prepared to the judge the different ways that I identify with the pain and suffering my crime has caused to victims?
3. In what ways will your sentencing memorandum reveal what I have learned from this offense?
4. Help me understand why the judge will not want to know more about the influences that led to my criminal behavior?
5. What have you learned about the influences that shaped my decisions?
6. What do you suppose U.S. District Court Judge Steven Bough meant when he said that few lawyers prepare their clients for sentencing?

7. What do you suppose Judge Bough meant when he said that most defendants who come before him at sentencing failed to reveal why they are worthy of mercy?
8. Why won't the judge want to see the work I've invested in this mitigation package?
9. What did U.S. District Court Judge Bennett mean when he said that he would like more defendants to submit mitigation packages to the probation officer during the presentence investigation?
10. If judges want defendants to reveal more about their backgrounds and the influences that led to their behavior, as well as the influences that make them candidates for mercy, why would you object to my presenting a case?

11. Wrapping Things Up

We're hopeful that you've found value in our Sentence Mitigation Workshop.

We hope that you'll become a part of our community at Prison Professors. We have various platforms where we publish new content every day. Through that content, we strive to help people learn more about steps they can take to prepare for best outcomes. They can also send questions through email and our team will respond.

Our entire team considers it incumbent for any defendant to do everything within his power to prepare for best outcomes. No one should work harder than you to advance your prospects for success.

- » Have you done everything within your power to prepare for the best outcome?

At the end of the day, you must remember that you're about to make the biggest sale of your life.

Prosecutors aren't always out for justice. Sometimes, they want vengeance. They get gold stars in their careers with resumes that show how they succeeded in persuading judges to sanction people severely.

Don't take my word for it. If you run a Google search on the prosecutor that prevailed over my case (Google Portia Moore and Michael Santos) you'll see her new law firm of Davis Wright Tremaine. Under the experience tab, Portia Moore still cites my conviction—even though the conviction took place in 1987:

» [United States of America v. Santos.](#)

Tough sentences are sources of validation and career advancement for prosecutors.

Make sure that you're doing everything to counterbalance efforts prosecutors will make to advance their career at your expense. They may want a severe sanction. They may want to take your liberty.

You must decide if your lawyer is doing everything within his power to advance your prospects for mercy. You must introspect and think if there is more that you can do.

We wish you the best possible outcome.

Sincerely,
Michael Santos and our entire team at Prison Professors

Appendix

As an example, we asked Wayne, one of our newest team members, to work through this workbook. As Wayne will describe, he is a graduate of Cornell Law School and he built a career as a corporate lawyer. He did not have any experience with criminal law.

A bad decision on his part led to disaster. While under the influence of alcohol, he drove a car. That decision led to a fatality. Besides having to live with the knowledge that his decision resulted in death, he also had to confront a criminal charge.

Despite legal training from an Ivy League law school, Wayne said that he did not know how to prepare before sentencing.

When we connected with Wayne, he had completed his prison term. He was recalibrating his life and facing challenges getting traction. He joined our team. We asked Wayne to reconstruct his mindset, and go back to the time before he was sentenced.

» If you received this workbook before your judge sentenced you, how would you have responded?

We wanted to provide our readers with an example of how to use the workbook. The following pages shows Wayne's unedited responses. We encourage readers to review Wayne's responses, as one example.

Readers may recognize the time and energy necessary to help a judge and other stakeholders understand reasons why a person may be worthy of mercy.

Our website features a series of video and audio files that accompany this lesson. We hope that you find the resource helpful as you prepare for the best possible outcome.

Lesson 1 Wayne Boatwright Introduction Responses

Wayne Boatwright is Cornell Law School educated attorney who has worked at law firms, in-house for Accenture, and multiple Silicon Valley start-ups. He was convicted of Gross Negligent Vehicular Manslaughter in 2012 (drunk driving that resulted in a death) and sentenced to 7 years-8 months (the mid-term for his offense). On the Mainline of San Quentin State Prison, he served 6 years-3 months by earning ‘good-time’ credits and milestones securing his release in February 2019.

I was a successful corporate attorney and had no understanding of the criminal justice system. I can’t express how I wish I had access to the SAG before my sentencing. I am confident that if I had, my chance of securing the low-term (4 years 8 months) would have increased substantially.

I did not have the SAG and allowed my defense attorney to handle my case and sentencing response. I never spoke in the court.

Here I will provide the idealized answers to the SAG questions even though my journey of rehabilitation occurred in San Quentin State Prison.

Task: Try to see yourself from the perspective of others. With that end in mind, please write your responses to the following questions.

Who are the victims in my crime?

- » The occupants of the SUV I struck, their families, friends, and communities as I took a life with my crime.

What role did I play in this crime?

- » I arrogantly and carelessly considered myself capable of driving while continuing to drink vodka-red bulls.

How did I get involved in this offense?

I had told myself to be ‘better, faster, stronger’ for so long that I actually believed it. I knew I was drinking to deal with my own problems but arrogantly thought I could safely drive from Los Angeles to San Francisco while drinking.

What was I thinking when I made the decision that exposed me to these charges? I was feeling sorry for myself as I was dealing with family matters by myself including emptying out my mother’s and brother’s old apartment. I went to drinking to ease my work that day in packing up their life. I considered my desires to be the only ones that mattered.

What am I striving to accomplish by working through this exercise?

I’m hoping this course can provide me with the tools I need to achieve self-awareness and demonstrate that self-awareness in my Sentencing hearing brief.

I come from an educated politically correct atheist postmodern world. A world consisting of internet superhighways, Sand Hill roads, and multimedia gulches. In this App-driven world, I’ve made no effort to understand myself or my emotions. I feel like I have destroyed my victim and her family’s life and that of my own family.

How can I ever be whole? My goal is to gain insight from the suffering I have caused and my suffering. I’m going to suffer either way. The only question is whether I do it in the darkness or in the light. While facing up to the bright light of self-awareness isn’t easy, it’s possible. Fundamentally, self-awareness isn’t a trait you’re born with; it’s a set of habits you can learn to cultivate. I’m hoping this course can provide me with the tools I need to achieve self-awareness.

How do the people that investigated my crime view me?

My investigators know the accident report. I was driving the wrong way on the I-5 freeway about 1 am in an isolated stretch of the central valley and struck my victim’s car resulting in her death. When inspecting my car (and medevac’ing both my victim and me), they would have discovered an open bottle of vodka.

Upon arrival at the hospital, my blood test should a blood-alcohol level of 1.8 (double the legal limit). When I regained consciousness the next day, they would ask:

- » Remembered drinking? Yes
- » The accident? No
- » Driving the wrong way? No
- » Did I realize I had killed someone? My crying answer was No

With the evidence that he has seen, what does the prosecutor think about me as a human being?

This man is an alcoholic as there were two bottles of vodka (one empty) in the car. The negligence of driving while intoxicated is a common occurrence, but driving the wrong way on a freeway, that is intoxicated.

What thoughts do my victims have about me?

There were two surviving victims, one of whom was the eighteen-year-old daughter of the deceased. The rage of incomprehension that someone, anyone, could be so reckless would be first on their mind. Next, how to make sure that this defendant can never harm anyone else in a similar way.

How have my actions influenced the lives of others?

To Shirley's nine children I have taken their mother away. The one who helped keep the family together and was a comfort and role-model.

- » Never to be held by their mother.
- » Not even allowed to say goodbye.
- » How will the void ever heal?
- » The emptiness of her death and its senselessness has heaped an extra measure of pain.

To Shirley's grandchildren (four) and grandchildren-to-be, they will not have the love of a grandmother. She will not be there to tell stories and seek advice.

My victim, Shirley, was driving her youngest daughter to start college. An education and a campus are now forever linked to death for that daughter. Will that daughter's dream of a college education ever be fulfilled?

A community has lost a business owner and long-time neighbor. Who will take the place of that smiling face and waving hand?

First responders arrived at the tragic scene struggling to make sense of it while attempting to save lives. How can they treat all the accident victims the same when only one person caused it?

Police and Highway Patrol have been called away from other needs to respond to the crime. They have to secure the site (making sure no one else will add to the accident) and delay and divert traffic so that the medical first responders can do their jobs. A Medivac helicopter must be used here and not be available for other potential threats that night.

A Fresno hospital must deal with the accident victims, including me. They must use time and resources to stabilize one patient and process the death certificate of another.

All the witnesses to the tragedy on the I-5 freeway will attempt to process what they have seen and shudder wondering both what happened and if it could have been them or their loved ones.

In what ways have my actions influenced the community where I live?

The hospital called in early morning to a wife already frantic from her inability to speak with her husband. She will have learned that her husband has been and caused an accident with a fatality. He has severe injuries that will keep him hundreds of miles from his family for three months.

- » Two young children, six & eight will experience fear and uncertainty unimaginable before that day. Will they ever feel safe again?
- » Who is their father that he could do such a thing?
- » My many clients will all have to be told and find alternative consultants. They can't help but wonder whether Wayne is ever worthy of their trust again.
- » My Sunday school class of 4-5th graders will only notice that I am no longer teaching them and likely find out from their parents why.
- » Can adult church members be trusted?
- » I am a son and brother that has shocked my mother and brother by my senseless crime.

What steps can I take today to work toward reconciling with society and making things right?

I must face hard truths, finally, decisively. I have violated laws and must serve sentence for such. I will instruct my attorney to negotiate for a plea-bargain. There is no need for the judicial system to expend more resources on this crime than necessary.

I must assure myself, my family, my community, and society that I will never be drunk driving in the future. I need to not only cure my alcoholism but must never drink again.

How can I find the strength and tools to do so?

- » I will start and regularly attend AA meetings.
- » I will seek God's strength and blessing of my efforts by continuing to attend regular services, join a weekly bible study group and be the first to volunteer for any community projects my church has taken on.
- » I will begin regular, weekly sessions with a psychiatrist to not only address the unimaginable harm I have caused, but to search for ways to understand why I was drinking in the first place.

In parallel to such efforts, I will work with the insurance attorneys to face my victims and their families through the civil courts to assure them that a reasonable

and quick civil settlement can be reached, completely separately from the criminal justice system.

My privacy, honor, and self-image are no longer my central concern. I must go public. I will seek out opportunities to share my story with business and religious groups as a cautionary tale. I am not the only drunk driver and seek to reduce the risk of other drunk drivers causing destruction similar to mine.

With the information that he has, what is the judge thinking about my character as a human being?

The judge knows that I was once an accomplished person who had completed law school and become a member of the California Bar. As to who I am now, he will assume that this is not the first time I have driven under the influence, and I am a significant risk of doing so again.

The judge will know that I have had no prior legal problem or conviction.

What do others know about the influences that led to where I am right now?

Very little. I am a very private man and only project power and competency. They know about my career, family life, and social activities. All these point to a man of success.

Most of my friends and colleagues believe I was a trust fund child and have no idea I was raised by a single mother in rent-control housing.

If others knew more about the influences in my life, how would they perceive me?

They would know that I am a committed member of numerous social groups (Church, PTA, Junior Achievement, Asian Art Museum, Cornell Alumni, etc.). Raised shorn of a larger family, they would understand why I am so commented to the social connections I have and am always willing to volunteer.

Given the decisions I've made in the past, what is the best possible outcome for my life in the months, years, and decades ahead?

To do the best I can, I must:

- » Work with the DA and the court to arrive at a plea bargain.
- » Pay fair civil damages, even if they exceed my insurance to the victim's family (the settlement was \$1.55 million).
- » Recover from my physical injuries which include a fractured vertebra, fractured hip, fractured ribs, and fracture to my left leg.
- » Work with my wife to prepare our children for my sentence and organize family finances to reflect the cost of my crime.
- » Inform my clients and peers of my actions and aid in secure other legal support where needed.
- » Face my alcoholism and seek the tools necessary to maintain sobriety.
- » Seek mental health support to both deal with the guilt of having committed this crime and to understand what drove me to drink.
- » Seek advice from those that understand the state criminal justice system and prisons.
- » Face my fate with honor and grace.
- » While serving sentence, be a model prisoner, continue to develop the tools I need to heal and be a productive member of society (introspection, education, creative self-expression, service to the prison community, and society).
- » Upon release to parole, understand and abide by the regulations and exceptions listed in my terms of parole.
- » Seek to reconnect with my family, friends, peers, and community.
- » Seek to reestablish my support network for my sobriety and return to society.
- » Do all in my power to find gainful employment and live within the finance means it provides.
- » Find ways to serve the system-impacted community, my social groups and society.
- » Always accept requests to speak at event about my crime and recovery journey.
- » Accept the friendship and connection with returning citizens.

Wayne's Post-script:

I completed an 18-month course in restorative justice intended to help offenders learn to demonstrate accountability for their crime and develop new habits to respond to life's challenges. I sought to both face the consequences of my CRIME and discover the source of my character flaws that lead to the tragic crime that night in 2011.

I have asked myself WHY every day since the accident, aptly called a CRIME. If there is a grace to serving at [San Quentin](#), it is the array of groups that provide psychic tools to delve into the mind. I had taken full advantage of these opportunities. [San Quentin](#) is where I learned how to take this solitary psychic discovery journey, face my crime, and take personal responsibility for my actions (including my crime), as have thousands of other men within San Quentin's walls.

I honor the dead every single day. Many think of my crime as drunk driving. I see it more as the realization of the dreadful potential I possess as a "bringer of death."

I cannot change the past. My drinking AND driving were the proximate cause of Shirley's death; however, I am the vehicle of this terrible power.

This realization, that I am an adult is my truth. I will never forget the price paid by Shirley, her loving family, or my own family. I brought death to Shirley. The price has been paid and I will always honor her passing.

Every single day I seek to honor her involuntary sacrifice.

People who survive severe harm (victims and offenders) respond in many different ways. In our group we shared a long, difficult, and productive time together. The course culminated with a victim/offender panel and the opportunity to face those who had suffered as victims of similar crimes. I had a 5-hour panel that included a mother and teen daughter that had lost their husband/father to a drunk driver. It was an honor to be able to mourn with that family and others who had suffered similar losses.

The process of converting from a perpetrator/victim into a survivor is difficult. The goal is that as a survivor you may once again become a thriving member of society.

Lesson 2 Wayne Boatwright Goals Responses

In what ways do the goals that you're setting reflect your commitment to the values by which you profess to live?

The metaphor I used to make progress is this. I consider my alcoholism that culminated in my crime of taking a life as if it were a fire that burned down my personal psychic 'delusion house' where my self-image lives—All humans have one. I am using the time since my crime to rebuild my longstanding DELUSION HOUSE (called my SELF) built over a lifetime of belief and experience. I begin to see the world with adult eyes.

A metaphor suggests something; therefore, it becomes visible. Narrative (story) is always a nesting process of multiple layers seeking a goal. The story becomes the framing mechanism to guide one on a journey of discovery — a cipher to decode the painful past and compass to a better future.

In the jargon of the ivory tower academia, I require fundamental knowledge of cognitive, social and cultural processes that impact and transformed me from normal to dysfunctional. As a human, I am physical, psychological and socio-cultural. The key to my rehabilitation is cross-level coherence between these facets.

In what ways do the goals that you're setting reflect your commitment to the values by which you profess to live?

I learned much about the power of passion and those who can't control it. I understand how my passions led to my criminal activity and alcoholism. I'm learning to acknowledge my own passions and express them in beneficial ways. I seek to be known as an honorable person that can be relied upon to finish the projects that I start.

My complete efforts are to understand how I could commit my crime and work to guarantee that I will not commit a similar act ever again. The work of introspection, self-expression, and community participation have filled my time since my

crime. My victim and her family have paid an unconscionable price and I would find some way to honor that sacrifice.

I consider the world as a forum for action and my values are demonstrated by my actions. For goals to have substance, they must be shared, not just made, or written down. Given my past failures, I must record each incremental step/goal on my recovery journey.

- » What I discovered by this deep and difficult process was that my journey was my own but the path I took was all too common:
- » We all experience pains and traumas of one kind or another as children, leaving us vulnerable and afraid.
- » To protect ourselves, we develop ‘emotional armor’ in the form of psychological defense mechanisms.

Even though these defense mechanisms may have been useful at a young age, by the time we reach adulthood, their side effects are seriously sabotaging our lives in the form of broken relationships, addictions, narcissism, and even violence. These unhelpful behaviors persist and grow because we don’t see them. And so, we plod along in a daze of unhappy denial, continuing to make ourselves and the people around us miserable. I sure did.

Look, I’m going to *suffer either way. The only question is whether I do it in the darkness or in the light.* While facing up to the bright light of self-awareness isn’t easy, it’s possible for anyone. *Fundamentally, self-awareness isn’t a trait you’re born with; it’s a set of habits you can learn to cultivate.*

Once you have an idea of who you are, next comes self-expression (so that your community may see you) --best is creative self-expression (work, learning, art, music, writing, storytelling, etc.).

How will the goals you’re setting today influence your life in five years?

By establishing and meeting my goals, I can regain some of my self-esteem.

We all were trapped by the powerful siren call of rationalizations for our crimes as these rationalizations protect our self-image. I seek to defuse my delusions by facing them.

I expect I'll be in prison five years from now. Future Wayne will be a valued member of the prison community by regularly attending self-help groups, educating himself, and helping others.

By sharing my journey with my ex-wife and children, I will be able to continue to see them on visits and call them from prison. By working to rebuild their trust lost in my crime, I will be able to stay relevant in their fast-changing lives. Nothing inspires me more than the opportunity to atone for my crime and support my young children.

My new habits, developed to respond to life's challenges, will allow me to maintain my sobriety. I must not return to alcohol as a form of self-medication or entertainment.

By maintaining contact with my pastor and church community, I will be able to rejoin them upon my release.

In what ways will the goals that I'm setting today position me to achieve new goals in the future?

By completing my goals today, I'll be developing new habits (psychological tools) that will help me reach for more. I must face my self-delusion and dismantle the psychic habits that led to my criminal activity.

I will find ways to disarm these psychic habits as doing so is essential to my safe participation in society.

By doing so, I seek to be able to face the unknowable challenges I will have in five years. Only if I can learn to trust myself, will I be able to make progress.

In what ways do the goals that I'm setting today reflect my commit-

ment to reconciling with society?

We are social beings and that ensures that our adaptive behaviors are structured with the social community in mind (in the past I was cheating or hid my faults from society). Now, I observe others acting, in a manner I find admirable, and seek to duplicate their actions.

Our capacity for abstraction allows us to take our facility for imitation one step farther, however: we can learn to imitate not only the precise behaviors that constitute adaptation, *but the process by which those behaviors were generated.*

I seek to demonstrate that I am not only sober but have dismantled the habits that led me to drink, either to relieve anxiety or for pleasure.

The state of California spends over \$100,000 per year, per prisoner. By taking advantage of available methods to shorten my sentence, I'll be saving the state money.

How do the goals that I'm setting today show that I am working to make things right with the victims of my crime?

There is no way to make my victims whole. I seek to take that terrible price that has been paid and honor that involuntary sacrifice.

As part of me has known always, I am not complete. Guilt alone will not solve this. I must search my psyche using the new tools I am learning. These tools will aid my development and allow me to emerge as our true composite self in the conscious world and ACT in the physical world with honor. This search will not end with accomplishment (even though those will come), community (I will belong) or family (core to my identity). There is no end to searching I must do because of my crime.

How will I measure progress toward the goals that I'm setting?

Will anyone seek to know the man I am becoming over this journey home with no digital footprints on Facebook, LinkedIn, or even a Google search history?

Free of the twin distractions of mobility and being ‘connected,’ to the ALL-THING of a smartphone, I spent a fair amount of time THINKING. Yes, I studied too — ranging from ancient Greeks and Enlightenment philosophers to recent neuro-psychological research. This study provided me with jargon to reveal my inner world and how I see our modern society. To share these psychic insights, however, is most challenging. *You see, I refuse to know for certain what others take for granted.* To my surprise, the world is a much different place than I once thought. New mental constructs are both difficult to formulate and consume. The time it takes to ‘set the table’ with context bores people and you lose their attention.

Personally, I keep a daily journal and logbook of my efforts.

- » [Why What] have I learned about myself that puts me in a better position to achieve the goals that I’ve set for my future?

I seek to control my passions with more than my reason. Reason is a mere servant to our passions. Our passions control us. Unintentionally, we have found our more primitive sense-making systems and often confuse them with our personal SELF because they ring with certainty.

Nature makes a complete fool out of us. It uses this old intuition. A form of false knowing that is the source of our problems. The brain is a sense-making machine and relies on intuition when it has no alternative narrative. To battle intuition, we use storytelling. However, often we gain false knowing through a story (immersion in the narrative) as well.

I have found the source of my personal alarm state is felt in the body, usually made worse by thoughts. The anxiety /alarm is from an old childhood trauma that never healed. The mind is a ‘make-sense’ machine, so it picks up the alarm (old scar) and it creates negative thoughts to go along with the alarm-justifying

it. This creates worry and I keep the whole cycle/loop going. I was in a continual state of fear

The alarm was occupied by my child-self, and I had to learn to talk to him if I were to heal.

Why will working toward the goals that I've set make me into a better citizen?

I believe that people are stronger than their misfortunes. I face the demands of life voluntarily and my goal to be a better citizen. I respond to a challenge, instead of awaiting another catastrophe.

I don't begrudge anyone their personal journey. How else could they know who they really are?

I've gained a bitterly cured wisdom by my crime. It has made me different, not cruel, but hard. Hardness is no longer a quality much admired in men. It is rarely seen except in the old. When hardness surfaces in the very old, we tend to transform it into "eccentricity" to be indulged at a distance. I seek to honor these old values of citizenship.

In what ways will achieving the goals I'm setting show my commitment to living as a law-abiding, contributing citizen?

How will I be seen — as an eccentric? — still, my hardness has purpose. I work every day to keep my passions in check. The world is full of men who can't control their passions. They confuse choice with liberty. I seek virtue, the ability to govern oneself, as essential to exercise my freedom as a citizen.

For me, to act only upon your impulses is another's control, that of biosocial norms. I've experienced these on full display in my childhood, as they were when I committed my crime. Thanks to Kant, I can put words to my modern virtue. "Enlightenment is man's emergence from his self-imposed nonage. Nonage is the inability to use one's own understanding without another's guidance. This

nonage is self-imposed if its cause lies not in a lack of understanding but in indecision and lack of courage to use one's mind without another's guidance."

Why do the goals that I'm setting advance my request for mercy at sentencing?

NEVER CLAIM ABSOLUTE TRUTH — What makes my progress possible is not whether I am right or wrong, but how I face life's challenges. I believe there's unlimited progress possible. I realize that my current state of understanding hasn't even scratched the surface yet. I am the path toward becoming a full citizen and critical thinker.

Critical thinking, or the Art of Measurement, employs a metaphoric rhetorical Knife as a tool to divide between sense and nonsense. This analytic knife is the ability to name and split the whole world into parts of your own choosing, split the parts, and split the fragments of the parts, finer and finer and finer until you have reduced it to what you can use. Then it is time to act.

The art of using the Knife takes place not as an inherent, natural trait, but as a learned trait, only gained by practice. I comment to continue learning and practicing.

Lesson 3 Wayne Boatwright Responses

Your mitigation strategy should take the perceptions of law enforcement into consideration.

- » What steps can you take to overcome judicial bias that comes from your current predicament?

Create a plan to show how you're striving to contribute to society in meaningful, measurable ways. To the extent that you can show that you're thinking about others, you're showing that you want to be one with society.

Judges are more likely to respond favorably to people who show that they're striving to live for goals that show their respect for law and order. Think about the broader community. Create a pathway that leaves your judge with the impression that you're on a path to live as a law-abiding, contributing citizen.

In what way does your mitigation package differentiate you from every other defendant who asks for leniency at sentencing?

I know what I did.

Not on the day of my crime or soon after. I had to work to understand. By completing an 18-month course in restorative justice intended to help offenders learn to demonstrate accountability for their crime and develop new habits to respond to life's challenges. I seek to both face the consequences of my CRIME and discover the source of my character flaws that lead to the tragic crime that night in 2011.

I have asked myself WHY every day since the accident, aptly called a CRIME. If there is a grace to living in San Francisco, it is the array of groups that provide psychic tools to delve into the mind. I had taken full advantage of these opportunities. I've begun to take this solitary psychic discovery journey, face my crime, and take personal responsibility for my actions (including my crime).

While some think of my crime as centered on drunk driving. I see it more as the realization of the dreadful potential I possess as a “bringer of death.” I honor the dead every single day.

I cannot change the past. My drinking AND driving were the proximate cause of Shirley’s death; however, I am the vehicle of this terrible power. This realization, that I am an adult is my truth. I will never forget the price paid by Shirley, her loving family, or my own family. I brought death to Shirley. The price has been paid and I will always honor her passing.

Every single day I seek to honor her involuntary sacrifice.

Everyone has whys and reasons for their crimes. Each rationalization used to leverage a climb higher up Mount Narcissus. These rationalizations we had created to wrap the hard sharp facts of our lives. The enthralling pleasures of these stories (*and the actions these stories gave us permission to do*) blinded me to the abyss. I was going to “get mine” funded by lies, drugs, alcohol, and abuses of every kind. To my old self, all such acts justified; allowing me to hide as if I were in someone else’s skin. Seeking achievement by money or sex or blessed forgetting—again and again, becoming safe with the drug of alcohol. I work to learn the source of my maladaptation.

I am on a solitary psychic discovery journey to face my crime and take personal responsibility for my actions (including my crime. I seek to face down the demons of my own experienced trauma as a child and find those hidden triggers that released the flood of emotion taking me to the Endless Return to helplessness. I am learning to deal with the mental disorder known as PTSD and its trauma triggers.

It’s a bold statement, but the reasoning behind it is solid.

We all travel individual paths up the mountain of life. I acknowledge ownership if not a complete understanding of my journey.

My journey is detained publicly in various Medium Publications (*An Idea, Age of Awareness, Contemplate, and Medium General Distribution*). <https://wayneboatwright.medium.com/>

What does your defense attorney use know about the efforts you've made to reconcile with society?

My defense attorney only knows what I've told him and what he may have gleaned from the dozens of personal support letters I have requested from my community and peers.

Virtually all this information is backward-looking or related to my efforts with mental health professionals to deal with the crippling guilt I face from taking Shirley's life with my crime.

How does your mitigation package reflect your awareness of the job market you will encounter upon release?

As I member of the California Bar, I have notified the Bar of my situation and learned that I am to be disbarred (either now or at the end of my sentence). Upon disbarment, I must wait for a period of six years before attempting to qualify for the Bar again.

As much of my practice involves start-ups in the Bay Area, my expertise will be stale upon completion of my sentence. I will not be able to return to this work.

While I am wrapping up what work I can do with my existing clients, I am also advising them on how to secure new counsel.

Based on my research, I understand that it will be difficult to secure gainful employment and housing upon release.

I have confirmed with my church and verified with the San Francisco Parole Department that I will be able to occupy a separate In-law unit (attached to the garage) of a church member. She has graciously offered to let me stay there for up to six months rent-free.

As for work, I seek control of my financial life and not to rely upon any short of government assistance. Accordingly, I will do anything that pays (cat sitting, restaurant host, Upwork consulting, etc.). Further, as part of my attempt to reconcile with society, I will work with non-profits dealing with addiction and the criminal justice system.

In what ways is your mitigation package showing that you're striving to make amends with your community?

I belong to several communities. To demonstrate depth and breath, I've sought out people across time and geography. I have actively sought letters of support from members of these communities:

- » My faith community (including members from other churches).
- » My school alumni (high school, college, and law school).
- » My profession (clients and fellow lawyers).
- » My social organizations (Asian Art Museum, Junior Achievement, Foodbank, etc.)
- » My local community (fellow school parents, team members, coaches, etc.)

What does your mitigation package reveal about the incremental changes you expect to make over the next five and ten years?

Personal: I realize that my alcoholism was exacerbated by my lack of a strong support network AND my pride not allowing me to ask for help. Accordingly, I will join groups and organizations that will support my personal stability and growth – Church men's bible study, regular AA attendance and volunteering to speak and my home group and other regional AA groups. Join and volunteer to speak at New Canaan Society events about my alcoholism, crime and recovery.

Employment: Given I won't be able to practice law, I must investigate other disciplines. I won't have the luxury of time (no remaining assets after hospital, civil settlement, legal fees, and child support). Given the stigma that felons experience, I will start by looking for any gainful employment within my various communities.

Community Service: I have cost my victim her life and her family her comfort/support. By law, I cannot communicate with her family, therefore, I will seek to volunteer and/or work for organizations that support the disadvantaged and victims of crimes such as mine (e.g., Non-violent Communications, Restorative Justice, volunteer at school, AA, Man-2-Man, Humans of San Quentin, Braver Angels, Victim Offender Dialog, Mothers Against Drunk Driving, etc.).

How does your mitigation package show that you're tracking incremental progress?

I will use both a logbook for my AA attendance and work, all other community services. I will track and log all the course work I will take to assure my mental health and stability (Project Avary, Yale's Wellbeing coursework, Columbia's Transend coursework, any required work to regain my driver's license).

I will track my mental health journey by tracking sessions with psychiatrists, psychologists, and community groups.

When your judge reviews your mitigation package, what level of growth will it show that you've made?

My mitigation package will demonstrate that I am facing my crime and address my personal maladaptive behavior and habits that led me to drink and drive. Specifically, I realize my need for mental health guidance and supervision. Also, I have moved from being a mere attendee to meetings to participating in those meetings and leading them when possible.

Next, that I have taken steps to assure that I will never commit such a crime again including any restrictions on my driving or vehicle (breathalyzer test to start engine).

I have created and published more than 70 stories, essays and posts about my alcoholism and teaching my children about both it and my crime.

- » Consider reading *Why Daddy?* <https://wayneboatwright.medium.com/why-daddy-6cd6e2b59dea>

In what ways will your mitigation package counter prosecutorial statements that suggest you're only sorry because you got caught?

First and foremost, I am sorry I have committed such an unforgivable crime resulting in both injury and the taking of a life.

My transformation since my crime is substantive and verifiable. From the 70+ articles on various *Medium* publications to my work with Project Avary, Bonafide Life, Calvary Presbyterian Church, Prison Journalism Project, Man-2-Man, Non-violent Communications, Victim Offender Dialog group, AA, etc.).

I cannot turn back time no matter my desire. I seek to honor the price paid by my many victims (especially Shirley and her family) for my crimes. I am at the mercy of the court and await its decision. As I've told my 6- & 8-year-old children, "I am a citizen and I have caused great harm and broken society's laws. To demonstrate I understand the seriousness of my actions and that I am an honorable citizen, I will serve sentence in any way the court sees fit."

Why does your mitigation package show that you understand the severity of your crime and the victims that suffer because of the crime?

I have changed my very identity to honor the price paid by my many victims, especially Shirley and her family. The story of my life will never diminish or ignore the involuntary sacrifice of my victims. I seek to use my story as a means of warning others of the danger of both alcoholism and driving while intoxicated.

We each inhabit a story, describing where we are, where we are going, and the actions we must undertake to get from the former to the latter. These inhabited stories are predicated on an underlying value system (as we must want to be where

we are going more than we value where we are). In addition, they are frames of reference, allowing us to perceive (things that move us along; things that get in our way), make most of the world irrelevant (things that have no bearing on our current frame), and determine emotional significance (positive: things that move us along; negative: things that get in our way). Jordan Peterson

What is the best possible outcome from this mitigation effort?

I am a citizen of the United States and a resident of California. I take my duties and responsibilities as such seriously. I have breached both public trust and safety by my crimes.

The best possible outcome is that my personal transformation will allow me to heal myself and hopefully my family. As to my victims, I seek to honor the terrible price of my crime. I do not seek understanding or forgiveness per se. I wish to become a model citizen and demonstrate my sincerity through my actions.

I am on a journey of discovery and wish to continue as I now realize that I refuse to know for certain what other people take for granted. It seems as if our society is now driven by the perverse moral mathematics across the political spectrum.

The driver of this post-rational era is a requirement of emotional empathy replacing cognitive empathy in the assessment of any fact. This is a bad thing as we then charge the fact with a positive/negative valence. In *AGAINST EMPATHY*, Paul Bloom, a Yale professor, reveals emotional empathy (humanism defined) to be one of the leading motivators of inequality and immorality in society. Far from helping us to improve the lives of others, empathy is a capricious and irrational emotion that appeals to our narrow prejudices. This emotional empathy, unleashed by humanism, has unmoored our society from its traditional objective rationality by incorporating valence-charged facts into our decision-making process. Allowing intuition's emotional moral mathematics to guide our ethical and political decisions can lead to perverse outcomes, including the election of Donald J. Trump, the 45th President of these United States of America.

To recognize this new post-rational era controlled by Humanist Truth (you must name a demon to control it), I consider valence to be where I must focus my en-

ergy to help my children and my community develop critical thinking skills and deploy rational objectivism based on empirical science-based facts. Only open rational & disinterested minds will permit discussion of the current topics from COVID-19 to restorative justice.

Lesson 4 Wayne Boatwright Responses

The time is now to create your mitigation strategy. Figure out an accurate assessment of how the judge and others perceive you. Then work on a plan to show that you are much more than the criminal charge. Show that you're worthy of mercy.

Consider the following ten questions. Your responses may guide your personal mitigation strategy.

What does my judge think of me?

The horror of my acts is fulling detailed in the court documents. The Judge will consider the events of that night that have been verified by the evidence.

On August 30, 2011, shortly after midnight, respondent was driving after drinking a substantial amount of alcohol. Respondent was driving North on Interstate 5. Respondent pulled over North of State Route 41, near a construction area. Respondent made a U-turn from the right-hand shoulder and began traveling Southbound in the #1 lane of Northbound Interstate 5. Respondent continued driving South in the #1 lane of Northbound Interstate 5 forcing multiple automobiles and a semi-truck to swerve into the #2 Northbound Lane in order to avoid a collision.

Respondent continued to drive Southbound in the #1 Northbound Lane of Interstate 5, until he drove into another vehicle. The other vehicle was traveling at approximately 65 mph. Inside victim's vehicle were: (1) Husband [C. Snyder], (2) Wife [S. Murphy], (3) A. Murphy, and (4) D. Watts.

After the collision, the driver of victim's automobile, C. Snyder, attempted to give first aid to his wife, S. Murphy, who was still alive at that time. His wife died at the scene of the accident, shortly after the collision. A. Murphy suffered

a lacerated liver, fractured hip, and cuts to her mouth. D. Watts suffered a neck injury. C. Snyder suffered an injury to his right leg.

Respondent's injuries [my injuries] included a fractured vertebra, fractured hip, fractured ribs and fracture to his left leg.

The court entered respondent's plea of nolo contendere to: one count of violation of Penal Code section 191.5(a) (Gross Vehicular Manslaughter), a felony; and one count violation of Vehicle Code section 23153(b) (DUI with a BAC of Greater than .08%) with an enhancement of great bodily injury within the meaning of Penal Code section 12022.7(a), a felony. Pursuant to a plea agreement, the court dismissed the remaining count in the furtherance of justice.

Do you see the difference in my answers to the questions similar to Module 1?

I have not been able to see path the life I took (Shirley). Two others were physically injured in my crime.

How will my prosecutor portray me?

Drunk and drugged driving comes with a cost - and it is one that robs us of mothers, fathers, sisters, brothers, spouses, and friends. In this case, the prosecutor will portray the the victims/people behind the statistics and the injury I have caused.

One drunk or drugged driving death on the roadways is too many. The prosecutor can personally know that they have helped save more lives by putting me in prison for as long as possible in his pursuit of a future with no more victims.

What will my probation officer say about me?

Beyond the facts presented in the case filings, the probation officer will have interviewed me and summarize any record of prior interaction with the criminal justice system (even if it did not lead to charges).

The probation officer will know about my social life from "Family," "Education," "Employment and income," "Military," "Medical/psychological," "Record of substance abuse or lack thereof..."

They will attempt to identify discrepancies between my statements and those in the court record or the support letters submitted on my behalf (*look to the need to seek a broad scope of people and time they've know me*).

- » Specifically, while I did not serve in the military, I did serve a two-year religious mission on behalf of my church in Argentina when I was 19-21.
- » That my family life was difficult but stable. My single parent and grandmother were my care givers until I turned 19.
- » My education was public and culminated with degrees from Brigham Young University and Cornell Law School.
- » I have worked as a corporate attorney or foreign legal consultant since my graduation.
- » That my income was variable to well more than \$100,000 per year.
- » That I had begun drinking alcohol at 33 and it had become progressively worse over time and that I was a functioning alcoholic at the time of my crime.
- » That I had driven while intoxicated before and I had used other recreational drugs beyond alcohol.

In what ways will my behavior after the conviction differentiate me from other defendants?

They will know that I had faced my alcoholism:

- » First, by the 90+ days I spent in the hospital
- » Thereafter by my regular attendance at AA meetings.
- » I am attending private twice weekly session with a psychiatrist to understand how I could commit this crime and work toward making sure I did not do it again.
- » That I was proactively working toward a civil settlement with my victims and their family.

Why do I see myself as being worthy of mercy?

If the goal of incarceration is to assure public safety, then I am a person proactively working to assure both society and me that my crime will never happen again. Further, I have volunteered at a number of organizations dealing with addiction, depression, and mental illness. Specifically: AA, New Canaan Society, Calvary

Presbyterian church, Prison Journalism Project, Friends of San Quentin News, Bonafide Life, and Prison University Project.

There is no price on a life or to calculate my victims' suffering. The best I have been able to do is work with both my insurance company and civil attorneys for the victims to reach a settlement (ultimately, this resulted in a settlement of \$1.55 million).

If the goal is punishment, then I would make no such claim. I will submit to the will of the court. As a matter of efficiency, however, by placing me on felony probation (one year in county jail, then probation thereafter for the remainder of my sentence) or home confinement would meet the goal of public safety.

What steps have I taken to show what I've learned from the conviction?

I have always been a diligent worker having begun at a 7-11 at 16 years old and student (from law school to continuing legal education).

In all honestly, I had never imagined that I could commit such a heinous and unnecessary act as my crime. To learn from it, I have instituted a full-time effort to understand **WHAT** was the source of my maladaptation that had me commit my crime; **HOW** I could change my habits and face my addiction, **WHY** of the neurological, psychological and medical reasons behind my maladaptation.

The work of introspection, self-expression, and community participation have filled my time since my crime. My victim and her family have paid an unconscionable price and I would find some way to honor that sacrifice.

To do this work, I have had to go down to the very foundations of life and society. What I have discovered is:

As humans, we are organized in social systems. It is human nature to put all data into context in order to tell a story, re-create the world by this means, and thereby be able to predict outcomes (causality). By participating and listening to ethical debates dealing with all facets of the human condition (including my alcoholism, addiction, narcissism, and hubris). I seek to recognize the truth as it emerges

when a large number of flawed and limited minds battle it out (volunteer, group therapy, education).

I am using my critical thinking and dispassionate reasoning to understand my crime and myself. What I discovered by this deep and difficult process was that my journey was my own but the path I took was all too common:

- » We all experience pains and traumas of one kind or another as children, leaving us vulnerable and afraid.
- » To protect ourselves, we develop ‘emotional armor’ in the form of psychological defense mechanisms.
- » Even though these defense mechanisms may have been useful at a young age, by the time we reach adulthood, their side effects are seriously sabotaging our lives in the form of broken relationships, addictions, narcissism, and even violence.
- » These unhelpful behaviors persist and grow because we don’t see them. And so, we plod along in a daze of unhappy denial, continuing to make ourselves and the people around us miserable. I sure did.

Most individuals operate under an implicit societal narrative that they are unable to change on their own. Humans rarely abstract general principles from examples, therefore, we use STORY (a narrative construct rich in retrieval cues, i.e., making use of associations) to help identify and formulate the common strategies and methods that underlie critical thinking (to paraphrase Jordan B. Peterson’s Maps of Meaning: The Architecture of Belief). I am doing all I can to dismantle my trauma-induced defense mechanism that had my thinking it was okay to drink and drive.

In what ways have I helped my attorney present a credible case for leniency during my sentencing hearing?

Straight from my supplemental filing at my sentencing hearing:

In both the original and supplemental Reports, the author appears so affected by the tragic nature of the events of this case, that no real consideration is given to the facts and circumstances that weigh in Mr. Boatwright’s favor. This is illustrated by the treatment of Mr. Boatwright’s statement of responsibility in the

Summary and Conclusion section of the Report (page 5-6). The Report states, “The matter before the Court is tragic in nature and is not a mere accident.” This is true, and Mr. Boatwright has never treated it as a “mere accident.”

I have attached my actual letter from 2012. I suggest you read it and NOT DO WHAT I DID. Further, my defense attorney provided little/no guidance in the preparation of this letter or any information on the judge who would be considering it.

Beyond the statement of remorse and detailing some of my post-criminal actions, I ended the statement with:

I cannot imagine what it must be like for the victim’s family to have lost a wife, mother, and grandmother and suffered injury. I am trying my best to help my family. I ask this court for mercy so that I may continue to help my family as a husband, father, brother, and son as well as continue to serve the communities to which I belong.

How does my mitigation strategy advance the argument that I’ve got a solid plan to carry me through the prison term?

At the time of my case, I was mentally unable to consider or create a solid mitigation strategy to carry me through the prison term. My attorney never even broached the subject.

Now, I would outline:

- » Personal mental health efforts to address my addiction including, psychiatrist, group counselor/meetings, and psychologist.
- » Given my childhood trauma, I would highlight my work at AA, my children’s schools, and church on how I have learned to deal with trauma. The intent here is to demonstrate that I seek to dismantle the defense mechanisms and triggers that led me to use alcohol as self-treatment.
- » That I would be willing to honor any terms of parole/probation that are required to assume public safety (drug tests, home confinement, community service, etc.).
- » My goal to be a productive member of the society by working to support my family and pay taxes.

What was the impetus that changed my mindset?

I have discovered that as a child, the social value of shame has been mapped onto the biological disgust mechanism as part of my self-image and social interactions (valence charged facts). I realized I was an alcoholic but out of shame, hide the fact, even from my family. My pride and hubris meant that I did not seek out mental health professionals or rely upon my support network to deal with my problems (I told myself that I had to be ‘better, faster, stronger’ than anyone else and never admit weakness or seek help.

Just wanting to stop drinking or doing dangerous activities like drinking and driving was not enough for me. I needed a new narrative to allow me to deploy my critical thinking skills and address my addiction and shame. I found the best new narratives use allegory and metaphor that must be grasped and not explained.

For me, that is the burning down of my psychic delusion-house made of both conscious and implicit beliefs and habits. If you want to know more, consider reading about it on my Medium site: ***THE FIRE: How I destroyed my psychic delusion house by a crime & HOME DESIGN: Rebuilding after the (psychic) FIRE.***

- » <https://wayneboatwright.medium.com/the-fire-how-i-destroyed-my-psychic-delusion-house-886708f81da1>
- » <https://wayneboatwright.medium.com/home-design-rebuilding-after-the-psychic-fire-3bbe9bcb602e>

Why should the judge see me as something more than the decisions that led to my conviction?

The judge will have evidence of:

- » My family attending every hearing with me as well as a number of friends.
- » The 40+ letters of support from all facets of my life (family, friends, alumni, profession, clients, church members, etc.).
- » My public actions recorded in a journal and logbook related to my facing my addiction.
- » My efforts to reach a civil settlement with my victims and their family.

- » My longstanding community service efforts (church, Care-Not-Cash homelessness service, Junior Achievement, my two-year church mission to Argentina and AA).
- » My role as a parent and bread winner for my family (including both my and my wife's mother and special-needs brother).

Lesson 5 Wayne Boatwright Responses

How would you use those adjectives to define your life?

- » I am an able, caring, and cheerful man. While my family considers me intelligent and knowledgeable, also consider myself to be helpful and logical.

How would others use those adjectives to define your life?

- » Others would see me as through two lenses. Either as accepting, nervous and modest or proud, confident, and powerful.

What would others agree with in your self-assessment?

- » Others would agree that I am a cheerful and intelligent.

In what ways do others see you differently from the way that you see yourself?

- » Others will see me a lucky man with a wonderful family, but not responsive to business change or as organized as they would want.

In what ways do you see yourself differently from how others see you?

- » I am always afraid of failure, shy, and much more self-conscious than most would think.

In what ways can you show that you're striving to build a life that would cause both you and others to see you in this way?

- » I have demonstrated my commitment to taking the solitary psychic discovery journey, face my crime and take personal responsibility for my actions (including my crime). I seek to adapt my habits and behaviors so that I can proudly be a member of my community.

Through the interview, we can see that Titan asked many questions. Learn from Titan's story by responding to the following questions:

What did Titan think about the ways that others would perceive him?

- » He grew up in Hawaii that was rough, therefore, he wanted to learn how to earn the respect of his community. He had a kindly neighbor that set up a program to teach him to fight, fish and be a man in that dangerous neighborhood. "I had to own the street." "I was beaten ever since I was young."
- » He felt that to protect himself, we would have to be the first to violence.

What did Titan think about stressors in his life?

He knew that his life was difficult, even to the point of homelessness and starving. He felt lost in the world and a need to find self-respect in his skill at fighting. In his neighborhood he was a target as one of the few whites.

His challenges at home had him seek out support from a local tough and learn the ways of winning and keeping the respect of the street.

As he matured, he has built a school to teach other the skills of a machine shop because he want to give others the chances he had to make for himself after decades of suffering (prison, unemployed, divorced, etc.)

What didn't Titan know about himself before he began to introspect?

He was focused on proving himself no matter the means. His life had no value, therefore, no one else did and he would use violence to demonstrate his status.

He did not realize that he had the ability to take his focus and determination with his artistic talent to create a career in machine tooling.

Unlike his youth, he never imagined that, with time and effort, he could learn both new skills and new ways of being. He had no idea he could be a manager, business owner, teacher, church member, husband and father.

What did Titan learn about himself, that he didn't know prior to his introspection? Titan learned that he could change if he was willing to watch listen and follow those that are leading the life he admires. By being in solitary confinement after watching his Cellie commit suicide, Titan sought our wisdom in book and learned that he could unlock vast potential by staying focused and willing to learn new skills.

The willingness to sacrifice (his boxing career and former friends) demonstrated that he committed himself 100% to change.

What didn't others know about Titan before he began to change his thinking patterns?

- » Titan appeared to be an open book and boxer from the street life. His quick to anger and quicker to violence made other fear him (just like he wanted).
- » They had no idea that inside that hulking boxer existed an artist that would use his skill to sculpt metal.

How did Titan's introspection lead to a change in his life?

- » He was in solitary confinement for six months waiting his transfer to federal maximum security. "It was the first time I had read a book."
- » He realized that others were successful, and he wanted that too. "I began going to church...I had no remorse and it bothered me." While it took two years, I was able to start a relationship with God.
- » "I had to stop my habits and find a way to succeed in my career and family life" Titan said.
- » "I have a TV show and teach kids every night. I've got a workshop in San Quentin State Prison to train others like me," Titan said.

How does Titan tell the story that would cause others to see his change?

- » He admitted that he still had a similar ‘street’ mindset upon his release. He went back to boxing but now was much more careful about the risk of prison.

What woke him up to the need for change was another altercation. “I had a second interaction during my training for a fight. There was this guy irritating me at 2 am so he put a note asking the person to be quiet.” To be a ‘good neighbor’ Titan left a friendly note about the noise and even offered to help his neighbor with his truck.

Sadly, the neighbor did not take kindly to the request. This led to a two-week series of conflicts and culminating in Titan defended himself by striking his attacker. As before, his attacker suffered serious injuries and put Titan at risk of returning to prison.

As Titan’s neighbors and witness supported his story, therefore, he was not sent back to prison. Titan had woven himself into his community so that others would support him in a dangerous situation.

At that time, he decided that he would never strike another person in anger and walked away from boxing. Ultimately, he took a \$9.00 an hour job as a machinist.

If someone were judging Titan, would they be influenced by the crime he committed, or the way that his introspections changed his behavior?

The break with his past was decisive and clear by changing his home and his career.

The willingness to apply his skills and artistic talents to his machine shop work. Further, his commitment to his family obligations demonstrated that he cared for others.

When you compare and contrast Titan’s story of being a convicted killer versus that of Joe White-collar Offender, which character seems more worthy of your empathy?

Titan starts to model those positive mindsets of others and developed a belief in himself. The he took risks of starting his own business and hiring his own staff. But those risk were not about him but how he could help his customers, workers, and family.

In contrast, Joe Offender, appears to be focused on himself and his family. While he does give lip-service to change with Church and understanding the injuries caused by his crime, there is no evidence that he really understands the damage to society.

In what ways can you use Titan's story and the story of Joe White-Collar Offender to build a case for mercy?

"It took time for me to learn not to demand everything be my way, but I was humble enough to learn." Titan decisively broke with his past and demonstrated a willingness to change his whole life to become a productive member of his community.

"I had to learn to hold myself back. As a 20-year-old, I would hit first and establish my dominance." He had no expectations that others would respect his fighting skills and learned patience (demonstrated in all facets of his life).

"I pushed the machine." By finding a way to be more creative and efficient, my pay went up to 27 within two years and I was able to both pay my rent and child support. I realized I was a good man and my boss saw it and he made me the foreman of the shop.

I was committed to learning and being responsible for my team.

Titan now has 30,000 online students and 1,600 machinist teachers and for free.

Lesson 6 Wayne Boatwright Responses

By building a compelling case, defendants advance prospects for mercy at sentencing. We consider it crucial to show that you've done a considerable amount of work. Your judge will notice the many files that prosecutors and probation officers submit to argue for a severe sentence. Counter those arguments. Prepare yourself to overcome arguments by prosecutors who say that you're only sorry because you got caught, and that a lengthy prison term is necessary to protect society from you.

Action Steps:

Describe how your understanding of your case evolved since the day of your arrest.

There is so much here. On the day of my crime, I had checked my mother and special needs brother into a senior center and needed to clean out their apartment. I considered it sensible to during the drink Redbull vodkas during the day long work.

Beyond the shock of my brazen disregard for others, I have come to realize the scope of the damage I commented with my crime—especially across time.

I now realize the hierarchy of harm I have caused: victims, their families, my family, both our communities, first responders/caregivers, judicial employees, and society itself. I realize now that my actions that day may have had a long gestation period, but that the damage I caused will never end.

In what ways has this experience of working through the criminal justice system influenced your understanding of your personality?

The criminal justice system is a cold place. Any care or empathy is reserved for the victims and their families.

I have come to realize that I am not really that important to my community or society and maybe even more important than I realized to my family. I've had to face that I have much more influence/power than I had ever imagined. I had and

used that power to take a life and forever change the course/future of two family, at least.

Regardless of my age, I see how I was never really accepting the obligations and responsibilities of an adult.

How would you assess the values by which you lived prior to your arrest?

Prior to my arrest, my values that impacted my criminal activity and addiction were focused on the need to hide my weakness as I was not worthy of care or love. Power, therefore, became the key to how I appeared in the world. I would have the power to do what I wished (including drinking). While there were many things I kept secret, my power to appear normal was great. The camouflage, however, was growing thin as I had gotten to the level of telling myself every single day, “I want to die. No, you don’t your just scared and men are not.”

I find the shame of my crime almost impossible to bear. But I felt a similar level of shame with my failures. To my victim’s family and much of society, I am a cancer — the death bringer — that caused this CRIME. I am the reason the cops gather, and the paramedics frantically try to save her life. My inability to maintain my SELF and thus using alcohol to hide from my SELF, my carelessness in driving drunk, I WAS THE CANCER. My victim could not avoid me any more than a person can cure stage Four cancer.

I am the fire-starter that ignited and destroyed my marriage. However, it is not my only pain. I discovered that my inability to face my own PAIN as a boy, abandoned, allowed me to use alcohol to hide from my existence as an Ivy-league attorney, husband, and father. My life-long defensive reaction to this PAIN was predicated on the lie that I always had to be BETTER, FASTER, STRONGER - but alone always alone as I had no worth in my own eyes. The shame and fear of being vulnerable allowed my to commit my crime.

In what ways has your arrested influenced the values by which you live now?

How can you rebuild your own life after TAKING A LIFE (and destroying two families)?

For me, it required a complete rebuilt of my self-image.

I have also learned to deal with psychological trauma (caused and experienced). Given our country's psychological epidemic evidenced by virtue signals and trauma-triggers, I wish to share my unique perspective on psychological trauma and PTSD.

“In the end, we are self-perceiving, self-inventing, locked-in mirages that are little miracles of self-reference.”—Douglas Hofstadter, *I Am a Strange Loop* p.363
As set out in German existential philosopher Friedrich Nietzsche's masterwork, *Beyond Good and Evil*, the impulse to knowledge is not the “father of philosophy” and presentation of philosophy is but “a confession of faith on the part of its author, and a type of involuntary and unself-conscious memoir.”

In order to own my actions and honor the price paid by so many for my failures, I find this true of my musing as well the true is I live and die by my word, even to myself and how that word is manifested in the world.

How would you describe the values of your closest associates?

My closest associates are members of the Technorati. They are universally brilliant and accomplished. Whether it be from school, Ivy League, Stanford, Berkeley, etc. or work (start ups that have gone public and worth billions), or the arts, they are creative and productive members of society. Their values are common among secular atheist educated elite. None of them have suffered failure in any true sense (no matter their beginnings). They always win and only wish to be with others that share both their credentials and success.

What insight can you offer into the character of your parents?

As far too many black men in America (*yes, I'm white*), I arrived in the world as the second son of a single mother lacking a high school education. I had one half-brother less than two years older than me (and a sister, given up for adoption a year before that). Neither father stuck around. They had other families. I guess that was the price my mother paid for being pretty. She was first knocked up by

another teen and then by a ‘real man.’ Both types, young and old, left seeking other conquests, so it really didn’t matter. All they left behind was a name for the boys. Mom got us babies.

When my third daddy died, I was only 5 years old. Mom was used up by then; Round where she used to be flat; Crooked where she used to be straight. I never did discover who broke her nose. After the last stepdad died and his family evicted us from the house, mom gave up. She returned to face the terror of her life. She was forced to move back in with Grandma.

Like my mom, Grandma had at least three husbands and children from two of them; however, none of her husbands left. They all died. I don’t think she was happy to outlive them. With two young boys and no place to live, Mom had to crawl back to Grandma. This deed cost her more than you might imagine. Her greatest accomplishment wasn’t us boys. It was that she had broken free from her mama and the duties of helping to raise her 4 younger siblings and half-siblings. Now, in her late twenties, she had to slink back home, defeated, broken and afraid.

‘Home’ I use as a loose term, not a place. Grandma gave up her two youngest to her second husband’s family when he died. They never forgave her; as I would learn with my teenage uncle came to live with us. As her third husband died of alcohol poisoning, she was alone too. She lost what little she had and was living out in the country while working part-time as a nurse’s-aid. That was something my mother never did until I was an adult, work at a job. Of course, Grandma’s part-time salary didn’t go too far. The shame of using food stamps and getting 5-pound blocks of government cheese has always had me use coupons, even to this day.

While Mom hated the ‘failure’ of having to live with Grandma, she seemed to enjoy constantly reminding boys that it was our fault. At least Grandma brought some stability to our lives. She had a car, a gift from her eldest son before he died at 38. Best for us, she knew when to take us to get new school clothes and haircuts. Those things allowed us to move from a purely feral existence to a semblance of a normal life.

Whatever my mother's faults, I guess I was lucky she never lost herself in drugs or alcohol as so many others in our neighborhood did. Grandma would drink a bit-always alone and at home. Grandma always said, "no man's shadow will darken my doorway again as long as I live." She saw this rule as one way to give us a safe home. She was right for the most part; even though she never knew the menace of Uncle Brian....

What wasn't said was mom was empty now, without purpose. She had made a shell to hide in. There was no room for her sons, but at least she hadn't gone down the path of addiction.

Instead, Mom lost herself in TV, cheap romance novels and doing the few chores that suited her. To the end of her life, she did my brother's laundry and grocery shopping. Not much else, but his clothes were clean, and he could find food in the fridge until the very end, but that's another story.

I count myself among the lucky that I could form a personality while exploring the cliffs and coves of the Northern California Coast instead of under LA's smog-red moon. I would only experience the wilderness of the street as an already-formed teen. In the 'hood, I did those same ignorant acts of many a feral teen-from petty crimes to dealing in high school. The street teaches you whether you want to learn or not.

Describe a character in television show that has influenced your thinking in the past.

As I was raised by my mother and grandmother with my special needs brother, I always wished I had lived in the Cartwright family of [Bonanza](#). Ben was the father and respected by his three sons. He was an idealized father, always at the ranch and ready to offer solid advice and help to his sons and his community. I always wished I had a father in the home but also brothers upon whom I could rely. Share a powerful lesson you've learned from a book you've read.

[*In For Your Own Good*](#) by Alice Miller, addresses the treatment of early childhood trauma, however, she does not construe it as sentimental or even an attempt to excuse these deeds. Empathy with the child within need not be construed as

mere emotionalism or sentimentality. The consequences of humiliating a child from birth are near universal.

No matter the criminal, we use the word guilt. No matter the criminal, nothing is gained by using the word guilt. Of course, society has the obligation to lock up criminals that may cause further harm. For the time being, we know of no better solution.

The need to commit murder is the outcome of a tragic childhood and the need to imprison is the tragic sequel to this fate.

I wonder what is the correlation to childhood beating and criminality?

The whole world reacts with horror to the act of murder and overlooks the conditions giving rise to them. As if the murderer fell from the clear blue sky. Even the worst criminal was not born a criminal. Empathizing with a child's unhappy beginning does not imply exoneration of the cruel acts he later commits.

Those who commit crimes are often warding off the conscious knowledge of their own fate as victims (childhood trauma). Consciously experiencing one's own persecution/trauma provides a protection against sadism (ENVY)-the compulsion to torment and humiliate others, i.e., and can impact crime rates.

As adults we won't make progress by accusations, indignation or feelings of guilt-we must understand the situation resulting in crime from its very beginning. Authentic emotional understanding is not emotional pity.

While these childhood traumas may seem ubiquitous, the fact that a situation is ubiquitous does not absolve society from examining it. In fact, we must or suffer this continued cycle of violence.

Living out hatred is the opposite of experiencing it. To experience something is an inter-psychic reality. To live it out, however, is acting out in a destructive form (injury to others) or self-destructive form (e.g., addiction, eating, etc.). Thus, LIVING-OUT can lead to the destruction of self and others.

Victim of a tragic change of circumstances, even so, the perpetrator must be imprisoned if society is to be protected. The issue is are we to punish the criminal or recognize that he was the last in a chain of events from a childhood trauma.

Merely pronouncing a person guilty is not the heart of the issue. You can see the tragedy of a murder's life without minimizing the crime or the continuing dangerousness of the criminal.

Share how you've described your problems with the criminal justice system to friends and close associates.

Problems? Hmmm, they were shocked to find out my sentence. Few wish to understand the circumstances that led to my crime (my alcoholism and depression). I don't blame them as I'm not into victim porn.

Nature makes a complete fool out of us. It uses intuition. A form of false knowing that is the source of our problems. The brain is a sense-making machine and relies on intuition when it has no alternative narrative. To battle intuition, we use storytelling. However, often we gain false knowing through a story (immersion in the narrative) as well--confusion. I had expected one year in county jail and felony probation OR the low term given I was a first-time offender and respected and fully progressive member of my community what a young family already dealing with a wife with breast cancer.

I can't hide that I was frustrated and confused to be sentenced to the mid term for my crime given what I know I would have gotten in my home county (My crime was in Kings County, not San Francisco).

Rather than focus on the fairness of any sentence, I always say that I took a life, and the state has every right to sentence me to a sever sentence. I then turn the conversation t the work I did n=in prison and how so many of my fellow inmates are deserving of parole.

Talk about a role model, or mentor, and reveal how that role model or mentor influences your thoughts.

I was raised in a household where men were not welcome and basically were worthless and not to be trusted. Accordingly, I was never able to establish a strong relationship with a potential mentor. No, I did not realize this until I did the work in prison to understand myself.

Dr. Jordan B. Peterson is a professor of psychology at the University of Toronto, a clinical psychologist, and the author of the multi-million copy bestseller 12 Rules for Life: An Antidote to Chaos. Over these well-attended events, they held a dialog consisting of an amazing display of intellectual honesty, the crisis of meaning, and how public intellectualism should be conducted if we are to find our way out of the maze generated by our Humanist Knowledge.

Peterson show me that reason can be used in diverse ways than generally accepted in society.

I learned from Peterson that nature makes a complete fool out of us. It uses intuition. A form of false knowing that is the source of our problems. The brain is a sense-making machine and relies on intuition when it has no alternative narrative. To battle intuition, we use storytelling. However, often we gain false knowing through a story (immersion in the narrative) as well.

Peterson taught me that it is human nature to put all data into context in order to tell a story, re-create the world by this means, and thereby be able to predict outcomes (causality). Most individuals operate under an implicit societal narrative that they are unable to change on their own. Humans rarely abstract general principles from examples, therefore, we use STORY (a narrative construct rich in retrieval cues, i.e., making use of associations) to help identify and formulate the common strategies and methods that underlie critical thinking. Harris and Peterson could not agree on whether only FACTS can be TRUE, therefore, could not join a common narrative.

There are truths of drama and literature, and there are material truths of science. But there are times when those two align and they're true literally and metaphysically, literally and metaphorically at the same time. Jordan Peterson
If you want to know more about my journey, consider reading:

THE HAMMER, FLATHEAD & PHILLIPS: Relearning PSYCHIC building tools in prison

(From fear not felt since I was a toddler to awe too-long-absent from my middle-class life before I spent six years at San Quentin State Prison.)

Lesson 7: Wayne Boatwright Responses

For these reasons, it's essential that people create accountability logs. The accountability logs we create help us stay on track.

Describe the moment that you made a change in your thinking patterns for the better.

I had held on to much of my ways of thinking through my crime, court, sentencing, and arriving at San Quentin. Freed from virtually all of life's distractions (including mobility and connection to the ALL-THING of a smartphone), I made a conscious decision to submit to the reality that my whole existence had been built on a faulty foundation.

The moment?

It was 3 a.m. and I was awake. Not that hard to explain, I'm five feet up in the air on a metal 'cookie sheet' bunk under the full-moon brightness of the safety lights in a Level II dorm with 200 other inmates in San Quentin's H-Unit. My mind was flying back to the FIRE.

My wife and I brought our children into the world here. Our married life existed only under its roof for over 14 years until THE FIRE. This is my psychic construct of my marriage tied to this Edwardian brick and redwood house — my HOME. I destroyed my HOME with the firebomb of my CRIME (I took a life driving while intoxicated — legally defined as Gross Negligent Manslaughter). Four months into my 7 year-8month sentence my wife told me she was done with me and we were going to divorce.

I spent a fair amount of time THINKING. Yes, I studied too — ranging from ancient Greeks and Enlightenment philosophers to recent neuro-psychological research. To share these psychic insights, however, is most challenging. You see, I refuse to know for certain what others take for granted. To my surprise, the world is a much different place than I once thought. New mental constructs are both difficult to formulate and consume.

Reveal the influence behind that change.

Our divorce provided her with cover. I guess that's why EX came in my fourth month at San Quentin to inform me of our pending divorce. She was finished with me as if I were dead.

I have no animus toward EX. I know she is doing her best as a single parent to our two young children. She deserved a chance to be free from my crime and thus, me of course. EX has balanced making a loving home, work, and her very active social life better than most. My return weighs on her and the worry I'll be another burden. Will I be employable?

The EX is a fighter—a big reason why I married her. Few women fight. EX seemed to be equipped with an immutable sense of who she was and a fairly clear understanding that she would have to prove it. This understanding suited her well during our marriage. I could only imagine how she had to swallow her pride every time I was mentioned or missed during those lean years. Tough enough having to acknowledge her “co-parent” was not around, but she can't even claim I might be dead (like Odysseus' Penelope) and then to add the bile-inducing “fel-on” to my title.

EX has little reason to be reminded of our marriage as I surfaced from the deep of prison. I tread lightly around her and never want to add to her burdens.

How did you go about building a plan that would lead you to becoming the person you aspire to become?

I accepted that I was prone to mistakes in judgment and needed to literally refuse to know as certain what others seemed to take for granted.

As social and linguistic animals, we can capitalize on the experience of others (present and past) rather than trying to figure everything out ourselves. For millions of years, humans have conquered ignorance by dividing the labor of discovery and communicating their discoveries to others which is why any grade school kid knows more about the universe than did Galileo.

As humanity is a living library of what it feels like to do almost any experience we can possibly imagine, I determined to seek out good advice and understand the human biases that had controlled my life. Books are not simply piles of words to play with on a rainy day. When you open a book, as with a door, you go inside. Inside you practice. You learn to overcome adversity, survive loss, and become complete. You find tools powerful enough to understand the shape of how it is and to plan for how it can be.

What I discovered is that the past could be changed. **WHAT YOU FEEL NOW CONTROLS WHAT YOU REMEMBER FEELING.** Our inability to recall how we actually felt, means we are doomed to repeat our mistakes. I now had the chance to face my despair because I knew that it would end.

MEMORIES ARE NOT RECORDS, BUT SUBJECTIVE NARRATIVES ABOUT OUR PAST (especially emotional experience-PEAK/END BIAS). Just as I had learned about my ‘one true love’ was no longer and thus was re-remembered as never having been so.

What timelines did you put in place?

I can’t remember putting any in place as I was not sure I would survive prison. My goals were to return, reconnect with my children and be self-sufficient (I wanted no aid from friends or the government).

- » I had to learn how the necessary defenses I built to survive changed me.
- » Which of these defenses could I disarm?
- » Which would still be essential to my safe return?

In what ways have you been able to stay consistent with those timelines?

The goals of those timelines have been met and exceeded. I quickly deduced what fascinated my son and learned about it. We shared both baseball in all its forms and I learned about Premier League soccer and Xbox FIFA 2000.

We were able to reconnect other past and new memories and thereby become family again.

My daughter was only five when I commented my crime and six when I went to prison. We have had a much more difficult time reconnecting. It took over two years for her to trust that I really was back and would never abandon her.

I was able to both find work (grading papers, writing copy for hedge funds, doing piece work with Upwork, working for nonprofits, becoming a greeter at a restaurant, cat/house sitting for friends) and a new apartment. Only after I had accomplished these all-important goals did I feel safe enough to seek a full life.

What have you learned from the work that you've been doing?

My community sees me very differently. I committed no verifiable acts of violence in prison. I have learned liberty is to be valued, but virtue, to govern oneself, is my goal.

I've gained a bitterly cured wisdom in prison. It has made me different, not cruel, but hard. Hardness is no longer a quality much admired in men. It is rarely seen except in the old. When hardness surfaces in the very old, we tend to transform it into "eccentricity" to be indulged at a distance.

I've worked for eight non-profits since returning. The projects have left me at a bit of a loss. I have not been in political alignment with any of the organizations yet took the work as I needed to be self-sufficient.

I've learned that my former friends are willing to hire me to do research, copy work, house sit, cat sit, etc. but not to invite me to their weddings or birthdays. What I will accomplish I will have to do on my own.

Where will your plan take you in five years?

I've come to realize that Prison Professors Straight-A Guide curriculum requires me to embrace the CEO mindset:

- » We must identify success as the best, possible outcome.
- » We must create plans.
- » We must set priorities.
- » We must develop tools, tactics, and resources that will advance our prospects for success.
- » We must execute our plan.
- » We must adjust as necessary.
- » We must hold ourselves accountable.

In the next five years, I seek to find a community/company that I can consider home and work as hard as I can to help that organization succeed.

I must prepare. Tragedy need not be hell. If people did what they could to speak the truth and pay attention, then maybe the tragedy (that will surely come) would not have to deteriorate into an unbearable terror.

I seek to be a father loved, a man of honor, an employee valued, a true friend, and a man with the means to travel.

How will your accountability log prepare you for a law-abiding life?

- » I see the need for an accountability log and will start one.

In what ways does your accountability log show your empathy for the victims of the case?

- » I have done all I can to help the ethnic group of my victim with all of my ability.

In what ways does your accountability reflect your understanding of the case?

- » I can't ever repay the price paid by my crime. I will always honor that price by living the best life I know how to live.

Lesson 8: Wayne Boatwright Responses

A number of the questions do not apply in my case of gross negligent vehicular manslaughter.

3. What role did drugs or alcohol play in the offense?

It was central to my offense of gross negligent vehicular manslaughter while intoxicated. I did not, as I should have, detail my path to addiction and its use as a form of self-medication (not merely recreational or addiction) or my recovery.

Without attempting to dispassionately explain my path to addiction (both how & why), my attempts to face it (and fail before my crime), and my post-crime efforts, I did not give my judge a means to justify leniency. He had gone out of his way to explain that one option he had available was felony probation. The sentence would have had me spend one year in county jail and then be released on probation for the remainder of my sentence. Instead, I was sentenced to the midterm for my crime (7 years - 8 months).

I believe that I should have started at the beginning of my drinking (*I was 33 and on vacation in Portugal when I had my first drink...*).

How my alcoholism progressed including its predictable role in my crime (*I now realize I was a full alcoholic at the time of my crime - functioning - but unable to control my alcoholism. I arrogantly thought that continuing to use alcohol on the day of my crime was a reasonable act, then to drive and continue to drink. I was lost in my own problems and headless of the risk I posed to others.*)

My efforts to face my alcoholism after my crime (*While my 90 days in the hospital were spent to heal from my wounds, I used my intellect to discover the source of my maladaptation and learn how to both face it and change it. I have been attending both AA meetings and mental health professionals and groups...*).

Where I see myself now (*I now know that my alcoholism is not cured, however, my sobriety can be a lifelong state of stability. I am dedicated to both my sobriety*

and supporting others in their efforts to deal with their addictions. I am doing [specific verifiable examples]...)

Where I see myself in five years (I will have made into habits the traits necessary for sobriety - introspection/understanding self, self-expression/rigorous honesty, service/family & community).

I have discovered that for me meditation is an essential element of our self-understanding. I will share the Waking Up App with my communities (family, church, work, alumni, etc.)

I now realize that my ability to accept my feelings and honestly express my emotions is essential for my personal wellbeing (I have become a writer, speaker to groups about my crime and battle with alcoholism, etc.).

Service to ours is now always on my mind. By my crime, I have taken a life and injured my victims, the price of my crime is unmeasurable, however, I will do all I can to honor the loss I have caused with my crime. Specifically...

9. Does the defendant claim that the judge should be merciful because of the unlikelihood that the defendant will engage in the same type of criminal behavior?

What I have discovered in the aftermath of my heinous crime is that the only way I can assure myself that I will not ever commit such a crime again I must actually remove my armor protecting my self-image and find where I am maladapted.

I consider this analogous to a journey. My goal became searching for the trigger at the headwaters of my destructive river of malcontent that had empowered my tragic excesses and crime. I do not deny I am responsible for my actions, including my crime. I work to understand what compelled me to commit it. I just become free of the malignant currents of such excesses.

I have needed both group and personal mental health work to recognize and face the consequences of my crimes\ . I now know from these efforts that I desire to become a true honorable adult.

Disconcertingly, I've learned that it is human nature that once you confirm you that are not evil, you want to believe someone or something compelled you to commit such malevolence. This is the heart of a new battle. Discovering that there is no one else to blame for my actions – that takes power too. I've learned that no one and nothing controls a human. We choose to act and must face any consequences.

10. Does the mitigation package put too much emphasis on the defendant's good character, habits, education, or social status, suggesting that why he is unlikely to commit another crime?

I was taught as a youth that service was an obligation and opportunity. At the Boy Scout Troop of my congregation, I learned that I had an obligation as a member of a community to support that community. My church showed me that service was an opportunity as well, to grow and mature.

While I was a diligent student through my law school education, I continued to serve the communities in which I lived and belonged as a practicing attorney. I have regularly taught Junior Achievement classes to disadvantaged high school students. I am a deacon and Sunday school teacher to 4-5th graders.

Given my crime, I have become a regular member of AA meetings and doing the 12 Steps program as both a participant and sponsor.

11. Does the mitigation package sufficiently address the defendant's employment history?

I consider working for a living to be essential to my identity. I was living in a single-parent home and our family was on public assistance. By my senior year i was going to school for two periods and working the rest of the time at a machine shop. I purchased my family's first TV and only car when I was 17.

Through college and law school I worked as well. As an attorney, I was working 5 ½ days on average through my first ten years at a global law firm, a Korean law firm, and in-house at Accenture.

Before my crime, I had begun a career change and had been accepted as a Foreign Service Officer candidate after having passed all testing and a security check by the Department of State.

12. In what ways does the mitigation package reveal the defendant's general emotional condition and mental health?

I knew I was in difficulty before my crime, yet I could not stop drinking. Approximately four months before my crime, my mother suffered a fall and broken hip the resulted in her being placed on hospice care by Medicare. I made a total of six trips to Los Angeles from San Francisco to care for my mother and special-needs brother who were living in a one-bedroom apartment.

During this same time, I was suffering financial concerns and decided to change my career to become a Foreign Service Officer. Both my financial difficulties and dealing with my family's medical issues, instead of sobering me up, I found I was drinking more. Therefore, I had started seeing a psychiatrist. He diagnosed me as having depression and ADHD prescribed Adderall for my maladies.

I had always believed that I had to be 'better faster stronger' and admit no weakness, therefore I hid the condition from my friends and decided I alone would have to deal with my mother and brother. In my arrogance, I thought drinking was an acceptable form of self-medication.

On the day of my crime, I had moved my mother and special needs brother into an assisted living facility and was tasked with cleaning their apartment for the move. My brother was unable to help as his condition had deteriorated along with that of our mother. In my arrogance, I thought I could continue to drink while I drove back toward San Francisco.

13. How does the mitigation package address the defendant's educational background, his home life, or his sobriety?

I have been married to my wife for fourteen years and we have two children, Wesley 8, and Cassatt 6. The support of my family and church community has allowed me to recover physically and spiritually. This has allowed me to focus on the consequences of my crime and alcoholism as detailed above.

I was a graduate of the Los Angeles Unified school district and had middling grades as I was working more than going to school. Upon completion of my church mission to Argentina, I started my college career at Los Angeles Valley junior college. I continued studying and working until I graduated from Cornell Law School.

14. What does the package say about the candidate's likelihood of returning to the community as a contributing citizen?

As a longstanding member of my community, I have a number of commitments that I would hope to continue. I am a member of the Korean Art and Culture Committee of the Asian Art Museum, a regular volunteer to Junior Achievement, Care-Not-Cash for the homeless, and a deacon and Sunday school teacher at Calvary Presbyterian church. All of which is substantiated in correspondence and my Accountability log.

15. In what ways does the mitigation package address why the defendant failed to live in accordance with the law, and what he's done about it?

I was already an alcoholic at the time of my crime. The fact that my mother's illness and pending death was the catalyst that I used to justify my continued drinking and to drive that day of my crime.

16. How does the mitigation package show that the defendant has a strong possibility for successful treatment?

I have included letters of support from my church community and my AA sponsor. In total 42 letters of support will be included in my mitigation package.

17. Can the defendant offer evidence from experts that show solid prospects for rehabilitation or lawful employment?

I can never do enough to compensate for the death and injuries I caused with my crime. As a consequence, I will be disbarred from the California Bar. While this will mark the end of my legal career, I will attempt to secure a clearance from the Foreign Service to join a future entering class of Foreign Service Officers.

18. What reason does the judge have to consider an alternative sanction, such as probation or community service?

I have demonstrated a decisive break with my criminal behavior and demonstrated that I understand the incalculable consequences of my crime to my victims, both our families, communities and my failure as a citizen of the United States.

20. In what ways does the defendant's behavior after the time of arrest show that he has learned from this offense?

After my arrest, I worked with my victims' attorney to reach a \$1.55 M civil settlement and accepted a plea deal with the District Attorney, hoping to limit the costs of my legal process.

I have begun both mental health and addiction treatment with various professionals and groups.

Lesson 9: Wayne Boatwright Responses

Here are some questions that you may consider when preparing your sentence-mitigation package:

Describe steps you've taken to show what you've learned from this offense.

- » I have made a decisive life change by committing to sobriety for the rest of my life.
- » My crime and alcoholism led me to the need for introspection to find out how I could commit such an incomprehensible act. I now do daily meditation with Waking Up by Sam Harris.
- » I see the need for group support and regularly attend AA meetings and my local men's bible study.
- » By continuing my mental health sessions with both a psychiatrist and psychologist, I privately face the trauma I have caused and experienced toward maintaining balance in my life.

Describe your best attributes.

On the Big 5 personality trait scientific model, I am very high in openness to experience, which is the primary dimension of creativity, artistic interest and intelligence (particularly verbal intelligence). Openness to experience has allowed me to do deep dives into psychology and neurobiology. Further, I have been able to contribute to many new communities: AA, Braver Angels, Bonafide Life, Root & Rebound, Man-2-Man, and Humans of San Quentin.

Describe your short-term goals.

I have finally reached my personal 'escape velocity by having a full load of work, projects, public service, and family activities. Now I must finish:

- » Humans of San Quentin redesign of the site.
- » Aid Man-2-Man (I am on the Board) secure' grants and other financial support to allow them to focus on the work, instead of needing money.
- » Friends of San Quentin News both manage the site and redesign it.

Bonafide Life has tasked me with finding, interviewing, and drafting both a short and long biography of returning citizens that have used their organization.

As the co-chair of Braver Angels San Francisco and member of the regional committee, I seek to expand the reach of this organization seeking to foster communication across the political spectrum.

As a member of Calvary Presbyterian Church's Humanitarian Needs Committee, I am tasked with finding funding opportunities dealing with criminal justice reform.

As WebMaster of the San Quentin News, I seek to upload content and expand the reach of SQNews social media channels (Take our private Facebook group from 500 to 1,000 members by the end of 2022).

Work with Mt. Tamapalis College to design a New Media channel to be distributed by the CDCR's internal cable TV network.

Continue my work with Prison Professors' non-profit and extend my contributions to the consulting and compliance divisions of this organization.

Expand my Clubhouse followers from the current 1,300 to 3,000 by the end of the year.

Describe steps you've taken to show your commitment to achieving those short-term goals.

- » I created both a workspace and professional quality equipment at my one-bedroom apartment to allow me to design and create content for my many organizations.
- » I have publicly posted my commitment to these organizations on my social media platforms (LinkedIn, Facebook, Instagram).
- » I go out of my way to be teachable (being older than many of my co-workers, they tend to be hesitant to give advice).

Describe your long-term goals.

I am only recently a fully integrated person (what I would call an honorable adult) so my long-term goals are not yet clear to me.

- » Work satisfaction, evidenced by full-time employment as a salary commensurate with my contributions to the organization and belonging to the community.
- » The ability to support my children through the rest of their education (8-10 years) and fully share in their life (travel, events, gifts, financial support, etc.).
- » Contribute to a community of change-makers to better our society (Braver Angels, Clubhouse, etc.)
- » Expand my creative endeavors to more posts articles and maybe a book.

Describe how your short-term goals relate to your long-term goals.

- » As a consequence of my crime and incarcerations, I have made a decisive break with much of my past behavior.
- » Many of my short-term goals are nested inside the organizations I seek to support.
- » For example, I am working with organizations that focus on teaching fatherhood and non-violent communication, reentry, housing, humanizing the incarcerated, and providing them tools for education and self-expression.

In what ways did preparing for sentencing prepare you for the rest of your life

By having to look at everything with ‘new eyes,’ I am able to sit with the uncertainty that engenders. I have discovered my “superpower” is uncovering and understanding what organizations need to grow and thrive, and then developing systems, communications, and processes that help them move the ball forward for their constituents.

I’ve developed an understanding of trauma-impacted triggers and how I have disarmed my childhood trauma triggers and overcome my addiction.

I have seen the consequences that arise from being unable to control such triggers hundreds of times during six years at San Quentin State Prison. The body/brain holds the pattern (emotional state) of trauma and the victim is taken back to the same emotional state by a triggering event (it is literally ‘mapped’ into the brain).

Unfortunately, the human brain often gets in the way. After a traumatic event, certain parts of the brain may suppress this involuntary process, thus disrupting the natural chain of reactions that allows our brains and bodies to return to their normal states. By tracking our physical sensations and how they relate to our experiences of trauma we can “*complete*” *the interrupted process* of the autonomic nervous system (ANS). (emphasis added)

Dr. Levine has been a proponent of trauma treatment for decades and founded <https://traumahealing.org/> “It is an exciting time for the field of psychology. Our understanding of what trauma is and how we can work with it is deeper now than ever before — many thanks to the field of somatics. With the help of our new-found understandings, we are well poised to make significant differences in the lives of many.”

Freed of my unhealthy habits, I’ve sought to expand my understanding of how civilization works. Many of my post-prison writings focus on framing the digital realm as a Unified Field and breaking the hold of linear sequential reasoning is no longer sufficient in our digital age. **No you won’t find this in a Wikipedia search. We are traversing new ground here.*

Our civilization is transitioning from a Print Age (linear sequential thought) to a Digital Age (Unified Field). If you want to do a deep dive into this concept read:

The Gutenberg Galaxy: The Making of Typographic Man is a 1962 book by Marshall McLuhan, in which the author analyzes civilization’s adoption of electric/digital technology.

MY OPPORTUNITY/PROBLEM: Learning to work in a Unified Field Linear sequential reasoning is no longer sufficient in our digital age. The twist in our thinking comes from this: Our digital age transports us back into the unified field experience of oral and auditory modes [even if using a visual technology, its universal nature is analogous to traditional oral communication]. This Unified Field is the multi-directional sphere in which the web/cloud operates.

You already know this (implicitly). Virtually any MMOP (massively multiplayer online game or more commonly, MMO) operates as a Unified Field. Most suc-

Successful technology companies operate as Unified Fields for both database management, and operations (Amazon, Uber, Facebook, Google). This is good news. Problems can be solved faster and more easily when considered in the frame of this Unified Field reality.

Consider the algorithm that determines your Uber ride. You are asked to put in your destination FIRST and THEN any intermediate stops. This is a Unified Field at work-define the range and then enter data within that range. Most of us from the print culture would much rather start from the beginning, put in our next stop, and THEN the final destination (linear-sequential thought).

The use of machine learning and the internet has given us our digital age. To operate in the digital age, we must think differently-in the Unified Field that our digital age generates.

Civilization advances by extending the number of important operations that we can perform without thinking about them. All things that we “know” no longer demand our attention. To know something is to do it automatically, without thinking, to categorize it at a glance, or to ignore it entirely. The nervous system is “designed” to eliminate predictability from consideration and to focus limited analytical resources where focus would produce useful results.

As a civilization, we must break the hold of linear sequential thought and embrace the Unified Field.

What steps did you take over the past 30 days to reconcile with the victims of your offense?

I cannot contact my victim’s family directly by order of the court. However, I have worked with Sonya Shaw at The Ahimsa Collective to do my best to reconcile with the family.

After I participated in multiple sessions with The Ahimsa Collective, Sonya responded to my victim’s family (after they attempted to reach out to me).

Hi Wayne,

Below is the message I just sent to your survivor, and also just tried to friend him on Facebook. Let's see what happens, fingers crossed. So good to connect, I am so sorry I was kind of out of it today, had another crisis I was dealing with.

Hi Anthony,

You don't know me—my name is Sonya Shah. You recently sent a messenger mail to Wayne Boatright, who killed your mother in a vehicular manslaughter.

You so deeply expressed the impact of that loss on you and your family. I am so sorry for your loss, and I know nothing anyone can do can bring your mother back.

Wayne is unable to write you back—he absolutely wants to write you back and would like to offer an apology and accountability as best he can for his actions, but cannot because it would be a violation of his parole to be in touch with you directly.

He also couldn't reach out during his incarceration to apologize for the same reason, it is a violation for people convicted of a crime to reach out to their victims directly. That is where I come in—there is this program I work with called “Victim Offender Dialog” which is a legitimate way for you to either get a message back from Wayne or have a face-to-face conversation with him where you can express the great impact of your loss and he can try and be as accountable back to you as he can be.

If you are interested in this, or just want to talk about it as a possibility please give me a call at 415-516-9055, or email at sonya@ahimsacollective.net. here is our website for our organization ahimsacollective.net so you can see for yourself the work we do.

If you want to know more about the victim-offender dialog program, it runs directly through the state of CA and CDCR so it is absolutely legitimate, here is the website: <https://www.cdcr.ca.gov/victim-services/vod/> and you can call this 1-877-256-6877 or email victimservices@cdcr.ca.gov. and speak to Sonia Gutierrez who will tell you all about it. If you have any interest in learning more (you

don't have to commit to getting a letter from Wayne or having a dialog) but just learning more, just please reach out to me. Thank you so much, Anthony. Please keep safe and healthy and I hope to hear from you. Warmly, Sonya Shah

--

Sonya Shah

Director | The Ahimsa Collective

**[THE DIRECT COMMUNICATION BETWEEN MY VICTIM'S FAMILY
AND ME I WILL KEEP PRIVATE OUR OF RESPECT FOR THE DEAD.]**

Help us understand the influences that led to your changed perceptions.

As I now see the world, it exists between these two quotes:

*Something we cannot see protects us from something we do not understand. The thing we cannot see is culture[SELF], in its intrapsychic or internal manifestation. The thing we do not understand is the chaos that gave rise to culture[-SELF]. If the structure of culture[SELF] is disrupted, unwittingly, chaos returns. We will do anything – anything – to defend ourselves against that return.” **Maps of Meaning** by Jordan Peterson [aka Eternal Return]*

And

*... the very fact that a general problem has gripped and assimilated the whole of a person is a guarantee that the speaker has really experienced it, and perhaps gained something from his sufferings. He will then reflect the problem for us in his personal life and thereby show us a truth.” **Civilization in Transition** by Carl Jung*

Yes, most of us have to go back to our early childhood to heal. https://en.wikipedia.org/wiki/Adverse_Childhood_Experiences_Study

Even if you were fortunate enough not to have suffered any major traumas as a child, everybody has vulnerabilities, insecurities, and emotional blind spots. And at a certain point, it's impossible to achieve higher levels of happiness and

success if those insecurities — and the defense mechanisms resulting from them — go unaddressed. *5 Habits of Highly Self-Aware People*

As Tim Ferriss said in his interview with Brene: You're going to suffer either way. The only question is whether you do it in the darkness or in the light. While facing up to the bright light of self-awareness isn't easy, it's possible for anyone. Fundamentally, self-awareness isn't a trait you're born with; it's a set of habits you can learn to cultivate.

I noticed that my journey was my own but the path I took was all too common:

- » We all experience pains and traumas of one kind or another as children, leaving us vulnerable and afraid.
- » To protect ourselves, we develop 'emotional armor' in the form of psychological defense mechanisms.
- » Even though these defense mechanisms may have been useful at a young age, by the time we reach adulthood, their side effects are seriously sabotaging our lives in the form of broken relationships, addictions, narcissism, and even violence.
- » These unhelpful behaviors persist and grow because we don't see them. And so we plod along in a daze of unhappy denial, continuing to make ourselves and the people around us miserable.

If you want to know more about reconciling with your victims, consider contacting:

A Victim Offender Dialog leader: <https://www.ahimsacollective.net/> - 1. Sonya Shah: <sonya@ahimsacollective.net><https://sanquentinnews.com/rochelle-edwards-transitions-voeg-leadership/>

Bonnie Willis: expressionofflight@yahoo.com The organizer of my personal VOEG group: <https://sanquentinnews.com/h-unit-voeg-graduates-survivor-panel/>

Fritzi Horstman: <https://www.linkedin.com/in/fritzi-horstman-47508735/>

The founder of an organization leading this type of reform effort on the outside:
<https://compassionprisonproject.org/>

When your judge sees your mitigation package, what would you expect him to learn about you?

He'll understand that I formed my personality wandering the bluffs, coves, and inlets of the rugged Northern California Coast instead of under the searching lights of police choppers in L.A. or Long Beach. I would only experience the drug war zone and drive-by shootings as an already-developed teen.

As an adult, I am responsible for my actions and especially my crime.

My goal was to discover WHY I did it and work to make sure it would never happen again. This is what I found:

The whole world reacts with horror to crime but overlooks the conditions giving rise to them. As if the murderer fell from the clear blue sky.

Even the worst criminal was not born a criminal.

Empathizing with a child's unhappy beginning does not imply exoneration of the cruel acts he later commits.

Those who commit crimes are often warding off the conscious knowledge of their own fate as victims (childhood trauma).

Consciously experiencing one's own persecution/trauma provides a protection against sadism (ENVY)-the compulsion to torment and humiliate others, i.e., and can impact crime rates.

The instinct to spare the parent, (inherent in the 4th Commandment) encourages us to overlook crucial factors in early childhood and early development.

As adults we won't make progress by accusations, indignation or feelings of guilt-we must understand the situation resulting in crime from its very beginning. Authentic emotional understanding is not emotional pity.

While these childhood traumas may seem ubiquitous, the fact that a situation is ubiquitous does not absolve society from examining it. In fact, we must or suffer this continued cycle of violence.

Living out hatred is the opposite of experiencing it. To experience something is an inter-psychoic reality. To live it out, however, is acting out in a destructive form (injury to others) or self-destructive form (e.g., addiction, eating, etc.). Thus, LIVING-OUT can lead to the destruction of self and others.

I have worked long and hard to dismantle the triggers that led to my drinking, alcoholism, and crime.

Lesson 10: Wayne Boatwright Responses

We hope that it will serve you well. And if your lawyer gives you trouble, ask him the following questions:

What makes my case different from other defendants who appear for sentencing before this judge?

I have made efforts to understand the harm I have caused with my crime (victims, families, community, and society). The trauma of having to deal with the wrongfulness of my actions has led me on a journey inside my own self.

I've worked to understand:

WHAT: Understanding the path I took to alcoholism and the use of alcohol to deal with the stresses of my life. I'm looking back, wondering what influences led to my thinking it would be okay to violate laws of driving while intoxicated. Also, the expansive range of the trauma I have caused both to others and across time.

WHY: I only began to truly understand why when my five-year-old daughter asked me "Why Daddy?"

This eternal query of young children has pleased and perplexed parents from time immemorial. This particular ‘why question’ I had been preparing to answer since the night of my crime (rightfully called Gross Negligent Vehicular Manslaughter While Intoxicated). Still, I was startled by my girl’s presumptuousness.

As only a Daughter could ask a father, without rancor or guile:

WHY DADDY?

Wife was frustrated that day. In the past, I would have misread her as ANGRY, just as our daughter did now. The source of Wife’s short temperedness, however, was more one of frustration-driven disappointment. Wife found her single-parent responsibilities daunting. An amazing mom, it took all her abilities to keep our children in a normal childhood — easily lost given my crime and pending incarceration.

I realized that both my girls wanted to understand the exact same thing: why I used to drink.

Early on during my recovery and as a family, we discussed how I was drinking and driving that night of my crime. I explained that accidents happen but drinking and driving was WRONG — a crime. A crime I would have to answer for in court. After all, I was a citizen and had a duty to answer to any crime I might commit against other people. I would be judged by the state and have to pay for my crime.

What was left unasked was WHY I drank in the first place, let alone on that fateful night. Like a hidden splinter under the skin, this gap in understanding was the source of Wife’s festering discontent and Daughter’s question as well.

“Dad drank because he had been depressed for a long time,” Wife had told our children. This explanation deeply troubled Daughter. She understood depression was worse than sadness but was vexed by my depression.

I remembered when Daughter had suffered under the misconception that she had contributed to Wife’s breast cancer diagnosed four months after my crime. This

time I sensed Daughter's concern that dad had been depressed because of our family life. I could not let this misconception stand.

I have asked myself those very same questions each and every day since the accident. If there is a grace to my surviving my crime, it is the array of groups I've attended that provide psychic tools to delve into the mind. I had taken full advantage of these opportunities (AA, Non-violent communications, restorative justice, Jordan Peterson's personality seminar, Scott Barry Kaufmann's transcendence seminar, etc.)

Now was time to squeeze my hard-won realizations into a shape Daughter would understand. My goal was to both assure her I had indeed been the very happy daddy she remembered and share what I had learned about myself over these past long years of prison work and seclusion.

As with any answer to a BIG QUESTION, we played with it for a long time. Each of us needed to assure the other that we understood the importance of our family.

HOW: I have done the work to understand how my mind works and the levers that I can use to develop healthy habits of the mind. Further, I have sought medications that can aid in my recovery and maintaining my sobriety.

I feel like all my life I was making three righthand turns because I was afraid to cross on-coming traffic be turning left. I know have the courage to face my shame, fears and crime and turn left.

If you wish to read the rest of this story, go to [*WHY DADDY?*](#).

How have you prepared to the judge the different ways that I identify with the pain and suffering my crime has caused to victims?

My personal aspiration is to be a contributing member of my community again. I have worked hard during my recovery to prepare myself for returning. This is only a part of my efforts to understand how I could commit my crime and work

to guarantee that I would not commit a similar act ever again. The work of introspection, self-expression and community participation filled my time after my crime.

I have asked myself WHY every day since the accident, aptly called a CRIME. I have participated in an array of groups that provide psychic tools to delve into the mind. I had taken full advantage of these opportunities. For me, I am on this solitary psychic discovery journey to face my crime and take personal responsibility for my actions.

In what ways will your sentencing memorandum reveal what I have learned from this offense?

“The reason there’s so much hate and unhappiness in the world is because people lack self-awareness.” — Brene Brown

- » I have realized from my crime that my journey was my own but the path I took was all too common.
- » We all experience pains and traumas of one kind or another as children, leaving us vulnerable and afraid.
- » To protect ourselves, we develop ‘emotional armor’ in the form of psychological defense mechanisms.

Even though these defense mechanisms may have been useful at a young age, by the time we reach adulthood, their side effects are seriously sabotaging our lives in the form of broken relationships, addictions, narcissism, and even violence.

Help me understand why the judge will not want to know more about the influences that led to my criminal behavior?

The judge has a difficult job, to oversee the process of judgment of an individual that has committed crimes against victims and society itself.

Any judge comes with personal biases; however, the judge will attempt to look at each person anew. This view will be influenced by the judge’s prior experiences (as an attorney and judge). I imagine it will be difficult for him to keep the crime

(in my case, killing someone in an accident while driving on a freeway the wrong way).

While there was great harm done by my crime, he cannot help but consider how much worse it could have been.

- » How many times has he seen people in my position come before him multiple times (evidencing his presumption that I am a risk of committing another similar crime)?

What have you learned about the influences that shaped my decisions?

I was not born a criminal.

My difficult childhood child does not imply exoneration of my crime.

To assure myself I would never commit such crimes again, I had to learn about my subconscious used alcohol to ward off the conscious knowledge of my own fate of childhood trauma in a broken home.

I can better understand the harm I have caused by doing the difficult work of consciously experiencing my own persecution/trauma. This work has allowed me to understand my unhealthy habits and the compulsion to heedlessly drink and drive.

While my original view of manhood had me deny my own emotions, I now understand that an authentic emotional understanding of others and myself is not emotional pity.

The sad fact that others are on the same path I was before my crime has motivated me to help others in AA, Calvary Presbyterian church, Humans of San Quentin, and Man-2-Man. I seek to aid others who suffered childhood trauma which has perpetuated this continued cycle of addiction and crime.

What do you suppose U.S. District Court Judge Steven Bough meant when he said that few lawyers prepare their clients for sentencing?

Given the high number of plea agreements, the full airing of the defendant's story is rare. If you are sitting in front of a judge would make anyone nervous. Still, a personal statement is a critical part of any sentencing hearing. This statement must be focused on remorse. The lawyer is rightly proud of the work that they do for the defendant, but the defendant is always the best person to explain themselves.

What do you suppose Judge Bough meant when he said that most defendants who come before him at sentencing failed to reveal why they are worthy of mercy?

Sadly, many defendants seem to think it is too late to add anything to the record. He was frustrated that more defendants didn't act before the hearing to demonstrate their remorse by following restorative justice principles.

I have learned liberty is to be valued, but virtue, to govern oneself, is my goal. I've gained a bitterly cured wisdom after my crime. It has made me different, not cruel, but hard. Hardness is no longer a quality much admired in men. It is rarely seen except in the old.

I may be seen as an eccentric; still, my hardness has purpose. I work every day to keep my passions in check. Prison is full of men who can't control their passions. They confuse choice with liberty. I seek virtue, the ability to govern oneself, as essential to exercise my freedom as a returning citizen.

Too many defendants balance the suffering of their victims with that of the defendant and his family/community.

Why won't the judge want to see the work I've invested in this mitigation package?

In theory, the parole officer's pre-sentencing investigation report has included interviewing the defendant. Thus, the defendant has the opportunity to lay out his case for mitigation/mercy. Further, at this time, the parole officer has completed their presentence Investigation Report and the defendant could have laid out his case in his interview with the parole officer.

What did U.S. District Court Judge Bennett mean when he said that he would like more defendants to submit mitigation packages to the probation officer during the presentence investigation?

The parole officer that prepares the presentence investigation report always interviews the defendant. By the defendant presenting a mitigation package to the parole officer, that parole officer can confirm the claims and the judge my reference that presentence investigation report (not just the defendant's filings).

If judges want defendants to reveal more about their backgrounds and the influences that led to their behavior, as well as the influences that make them candidates for mercy, why would you object to my presenting a case?

The fact that an attorney wishes to present a professional case on the defendant's behalf. The defendant becomes a wild card in that presentation. Further, the attorney would seek to have already done the work to identify what influences and background that led to the criminal behavior.

Contact Us

Every person on our team at Prison Professors has gone through a government investigation. Most every person has also served time in prison. Our nonprofit strives to improve outcomes of the criminal justice system in the following ways:

1. We create courses that we offer to people in jails and prison.
2. We create income opportunities to help people that emerge from jail or prison.
3. We create resources formerly incarcerated people can use to prepare for law-abiding, contributing lives.
4. We strive to help taxpayers understand the collateral consequences of mass incarceration, to influence policy changes and prison reform.

If you would like to become a part of our mission, please contact us at the following address:

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