



Client Intake and Interview

AN OVERVIEW

STAGES

Initial Contact



Intake Interview



Closing | Fee | Agreement



Initial Intake

Via telephone, website questionnaire

By secretary, assistant, investigator



Form in materials.

Initial Intake Information

(in order of priority)

Full name

Telephone numbers

Email address

Mailing address

How did you find us?

In what municipality were you charged?

By what department were you charged?

What charges did you receive?

Prior convictions?

Other pending cases?

Breath/Blood Test Result/Refusal

Accident?

Were You Arraigned?

DL State/Number

Next Interview

Notes



Intake Interview

Length

Place: Office, Restaurant, Other

Manner: In person, Virtual, Phone

Routine, Habit, Systematic



Form in materials.

Interview Information

(in order of priority)

Client identification

Prior record

Penalty exposure

Other consequences

Immigration status

Out-of-state licensees

Prerequisites to prosecution

> Reasonable suspicion

> Probable cause

Elements of the offenses

Plea bargains, alternative dispositions

Facts of the case

Prior contacts with the officer

Case assessment

Hope for the best, plan for the worst

Process

Privileges

Homework

Fees and expenses

Further contacts



Interview Closing

Don't be shy about asking for the appropriate fee

Don't be afraid to say NO, go for YES, but no pressure

Try a negative sell

Follow-up with a phone call

Close the deal with payment

GET A SIGNED FEE AGREEMENT



Form in materials.

Define the Scope of Services

INTRODUCTION.

LEGAL SERVICES. My services to you include all necessary court appearances, research, letters, legal documents, trial preparation, and trial, if necessary, needed to represent you as your attorney in your case. These legal services will be performed by me, my staff, and others hired by me to further effective representation of your interests in the above referenced matter. My services DO NOT include (a) appeals; (b) administrative hearings; (c) retrials after mistrial, appeal, or granting of a new trial; (d) post-conviction relief proceedings; (e) criminal proceedings in Superior Court; and (f) other unrelated matters. I will have no obligation to provide any legal services until you pay the Legal Fee specified below.

Set a Minimum Fee

MINIMUM LEGAL FEE. There is a non-refundable minimum legal fee of \$[REDACTED] which is earned when my firm opens a file for you. For legal fees beyond opening your file, you have the option of hiring me on either a fixed fee basis or an hourly rate basis. In either case, I acknowledge receipt of \$[REDACTED] as a retainer toward the payment of these legal fees, inclusive of the \$[REDACTED] minimum legal fee. If you elect to hire me on a fixed fee basis, this retainer will be deposited in my attorney business account. If you elect to hire me on an hourly rate basis, this retainer will be deposited in my attorney trust account, subject to an immediate reduction of the minimum legal fee.

Offer a Flat Fee or....

FLAT FEE. Here is the fee agreement if you wish to hire me on a flat fee basis:

You have agreed to pay this firm legal fees for your case referenced above on a flat fee basis. That fee is \$, inclusive of the minimum fee. An additional flat fee of \$ will be due and payable after two court appearances. This flat fee includes all legal services performed on your case through the conclusion of your case in the municipal court, subject to the limitations on Legal Services set forth above.

Please initial here if you wish to hire me on a flat fee basis. _____.

....or an Hourly Rate

HOURLY RATE. Here is the fee agreement if you wish to hire me at an hourly rate:

You have agreed to pay this firm legal fees for your case referenced above based on the number of hours spent by me and persons employed by me. The hourly rate for my services is \$_____. The hourly rate for other lawyers working under my supervision is \$_____. The hourly rate for staff working under my supervision is \$_____. Work will be billed in increments of one-tenth of an hour for each tenth or part thereof. As work is performed, you authorize me to make deductions from the retainer on deposit in my attorney trust account.

Please initial here if you wish to hire me on an hourly rate basis. _____.

Define Expenses

EXPENSES INCLUDED. The following expenses are *included* as part of your Legal Fee: telephone calls; routine photocopying; routine secretarial services; regular mail; and on-line legal research for materials from New Jersey cases, statutes, rules and regulations; United States Code; and the United States Supreme Court.

EXPENSES NOT INCLUDED. The following expenses are *not included* in your Legal Fee. You must pay these expenses, if any, when I bill you for them. These expenses may include out-of-office photocopying, experts, investigators, messengers, motor vehicle abstracts, same day and overnight couriers, subpoenas, transcripts, audio and video recordings, and discovery documents.

AUTHORIZED EXPENSES. I will discuss expenses for experts, investigators, and other significant expenses as the need arises. You authorize me, without your prior approval, to incur up to \$ for any individual expenses.

Define Billing and Collection

BILLING. I will bill you from time to time and may require you to pay any or all legal fees and expenses in advance. All bills are due on receipt with interest at one percent per month for any balance not paid within 30 days of billing. If I must sue you to recover unpaid legal fees and expenses, you will also be responsible for paying our legal fees and costs of collection.

CREDIT CARD. If you provide me with your credit card information, you authorize me to charge all legal fees you incur and expenses you authorize to the credit card. You also agree to pay me any service charges associated with processing your credit card payments—usually between two-and-one-half and three-and-one-half percent of the payment amount, depending on the credit card you use. You also authorize me to make however many attempts are reasonable to collect legal fees and authorized expenses via your credit card.

COLLECTION COSTS. If I arbitrate or litigate collection of outstanding fees or expenses or both, you agree to pay the reasonable legal fees and costs I incur to pursue collection.

Demand Cooperation

No Guarantees

COOPERATION. You must cooperate with me, provide all information relevant to issues in your case, and pay bills timely. If you do not, I may ask the court to let me withdraw from representing you. I will also withdraw if you so request, provided the court approves.

NO GUARANTEES. I and other lawyers associated with me will provide competent, diligent, and conscientious services to you. But because of the uncertainty of legal proceedings, interpretations of and changes in the law, and other unknown factors, no one associated with me can predict or guarantee the results or final outcome of your case.

Summarize with the Signature

SIGNATURE. Please sign where indicated below and return the copy of this letter to me at your earliest convenience. Do not sign this agreement if it does not contain all the agreements about the type and scope of work to be done and the fee you will be charged. If you have any questions, feel free to call me at any time. Thank you again for hiring me to represent you. Best regards.

Sincerely,

John Menzel

ACKNOWLEDGED AND AGREED:

John E. Badlaw



Client Orientation

- Describe the *Fee Agreement*
- More info in writing via Questionnaire
- Discuss privileges
- Warn about social media
- Where to direct questions
- How to dress for court
- If the judge calls your name



Client Orientation letter in materials.

Build Client Rapport

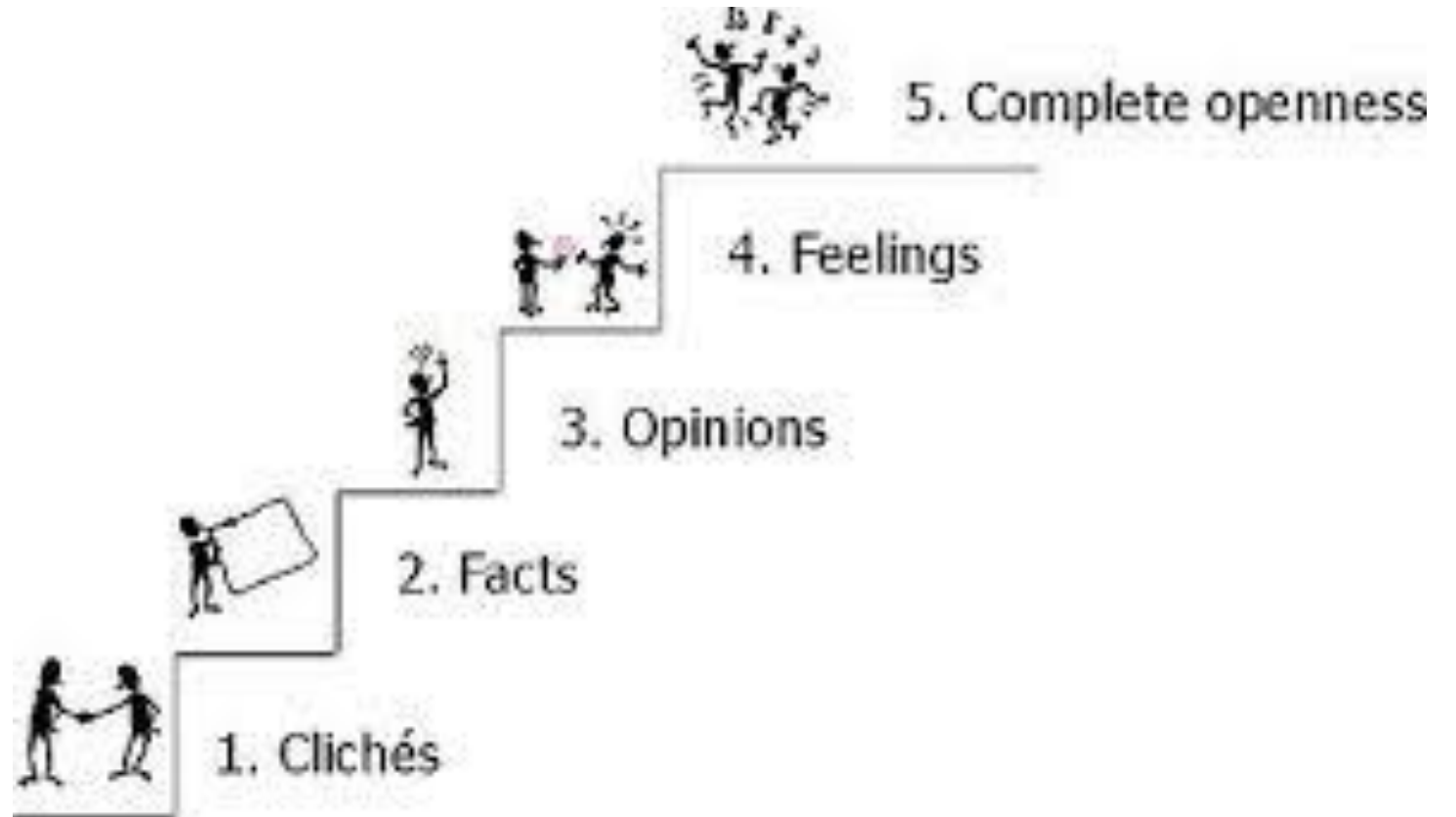
Call clients at regular intervals

Call clients at defined events

- > Discovery receipt
- > Court appearances
- > Video viewing

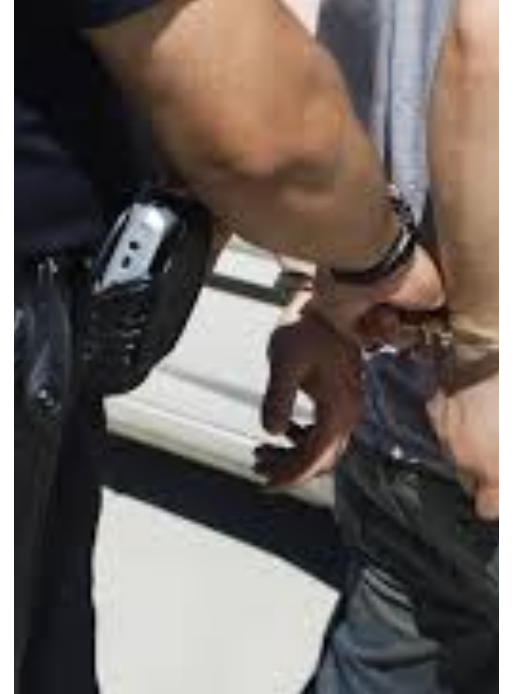
Be brutally honest

Encourage trial in most cases









Observation Based Proofs

STANDARDIZED FIELD SOBRIETY TESTS

HGN



W&T



OLS



Participant Manual

DWI Detection and Standardized Field Sobriety Testing (SFST)

Session 7

Phase Three:
Pre-Arrest Screening



CESTA

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Common Sense Clues to Sobriety

HGN: *State v. Doriguzzi*, 334 N.J.Super. 530 (App.Div. 2000)

W&T/OLS:

- ☐ Abnormal ways to stand and walk
- ☐ Compromise balance
- ☐ Reduce area to distribute weight
- ☐ Raise center of gravity
- ☐ Normal sober people compensate for induced imbalance

How Sober People Compensate

Walk & Turn:

1. Step out of instructional position
2. Starting early
3. Incorrect number of steps
4. Not heel to toe
5. Raising arms
6. Improper turn
7. Stopping to steady
8. Stepping off line

One Leg Stand:

1. Dropping foot
2. Raising arms
3. Hopping
4. Swaying

Find *NJSP SFST* manuals at the NJSP Alcohol and Drug Test Unit page of their website:

<https://www.nj.gov/njsp/division/investigations/alcohol-drug-testing.shtml>

Common Sense Explanations for Impairment


Drinking alcohol and driving
are legal



Observations are non-
specific for alcohol



Impairment is cause by many
things, most within the law



Fill the holes in the officer's
report

BREATH TEST FOUNDATION

Qualified Operators



Proper Working Condition



Proper Administration



Alcotest 7110

A. The operator who conducted the tests shall be made available to testify and shall produce the documents evidencing his or her training, and

B. The following foundational documents shall be offered into evidence to demonstrate the proper working order of the device:

(1) the most recent Calibration Report prior to a defendant's test, including control tests, linearity tests, and the credentials of the coordinator who performed the calibration;

(2) the most recent New Standard Solution Report prior to a defendant's test; and

(3) the Certificate of Analysis of the 0.10 Simulator Solution used in a defendant's control tests.

State v. Chun, 94 N.J. 54, 154 (2008)





Alcotest 7110 Trial Exhibit Checklist

- ☐ NIST Traceable Digital Thermometer Readings
- ☐ Calibration Record
- ☐ Calibration Certificate: Part I – Control Tests
- ☐ Calibration Certificate: Part II – Linearity Tests
- ☐ New Standard Solution Report (post calibration check)
- ☐ Alcotest Operator Certification replica card (coordinator)
- ☐ Breath Test Coordinator Instructor replica card
- ☐ New Standard Solution Report (pre-AIR)
- ☐ Alcotest Operator Certification replica card (operator)
- ☐ Certification of Analysis, 0.10 Percent Simulator Solution
- ☐ Alcohol Influence Report
- ☐ Tolerance Worksheet



Alcotest 7110 Match Up Numbers

- ☐ Alcotest 7110 serial number
- ☐ CU34 serial number
- ☐ Simulator solution lot number
- ☐ Sequential file numbers
- ☐ Cycle numbers
- ☐ Simulator solution bottle numbers
- ☐ Check dates generated
- ☐ Check function dates



Alcotest 7110

Proper Administration

- ☐ Remove portable electronics from testing area
- ☐ Check mouth
- ☐ Begin 20-minute minimum continuous observation
- ☐ No burping, belching, regurgitation, ingestion
- ☐ New mouthpiece before each sample
- ☐ Read blowing instructions before each sample
- ☐ No less than 2 minutes between breath samples
- ☐ No more than 4 minutes between each attempt



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New Jersey State Bar Association:

2015 recipient of the NJSBA Municipal Court Practice Award

Past Chair, NJSBA Municipal Court Practice Section

National College for DUI Defense:

Board certified in DUI defense

2017 recipient of the NCDD Mentoring Award

Immediate Past State Delegate

Sustaining Member

Faculty

Other:

N.J. Institute of Continuing Legal Education presenter and moderator

Garden State Continuing Legal Education senior instructor

Certified by Drager re Alcotest 7110 breath testing instrument

Certified in Standardized Field Sobriety Test administration