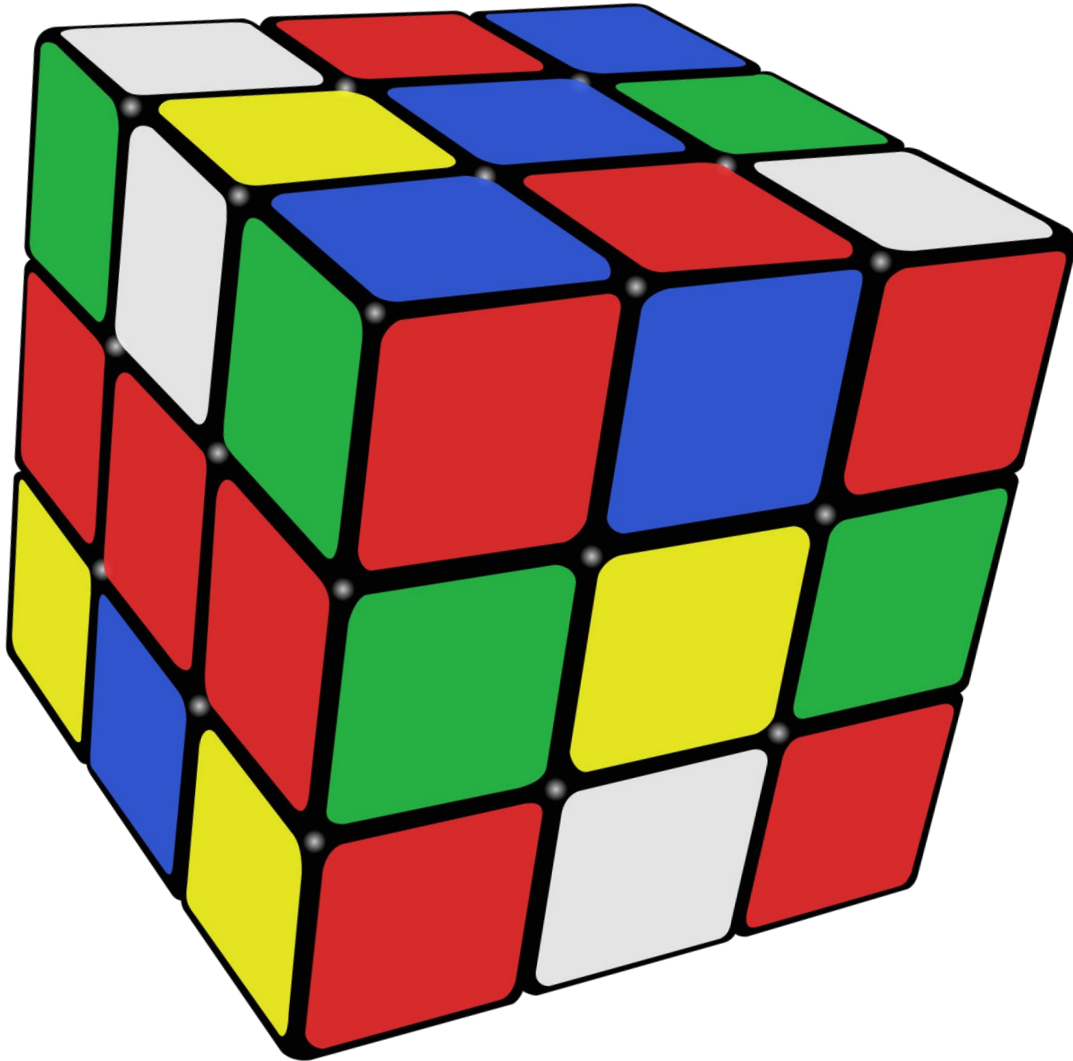




WHAT IS MITIGATION 101?

Presented by:
Abby Brumley-Edwards, Attorney
Lela Hubbard, LCSW



This Session

Ways to develop and uncover the lived experiences of our clients

How to connect the dots of our clients lives

Explore mitigation and the keys to uncovering it

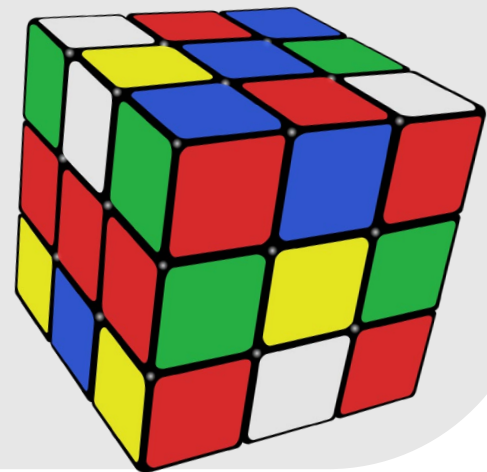
The importance of explaining the process, while humanizing your client through their lived experiences

What Is Mitigation?

- ★ Also known as Mitigating Factors or Mitigating Evidence
- ★ Evidence presented by the defense in the sentencing phase to:
 - demonstrate that the client's choices in life have been significantly curtailed by biological, social, and psychological influences that are not of the client's choosing
 - To lessen culpability of our clients by focusing on why the (alleged) crime happened rather than how it happened.

It's the stuff that helps to tell your client's story

- ★ What it was like growing up as your client?
- ★ What influenced them to become who they are today?
- ★ Why did your client (allegedly) commit this offense?
- ★ What change does your client want to make?



Effective Mitigation

Draws in the listener, reader, decision maker

Makes them listen + care

Reaches them in a memorable way

Shapes the way they understand our client + the case

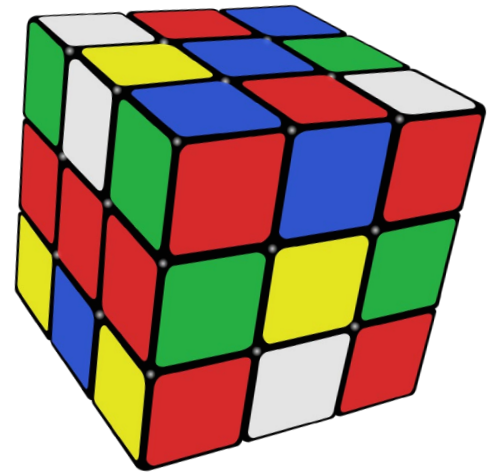
Impacts the decisions they have to make

The Power of a
STORY





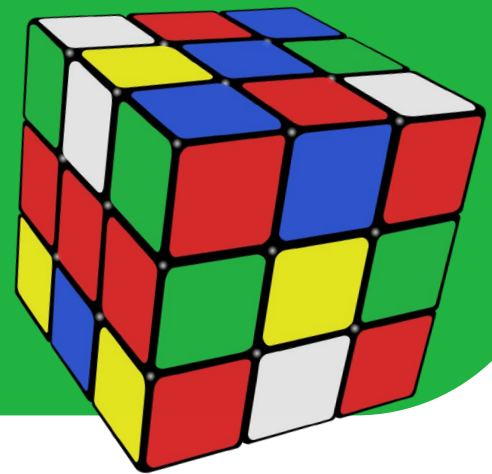
When To Conduct a Mitigation Investigation



Mitigation Starts During Intake

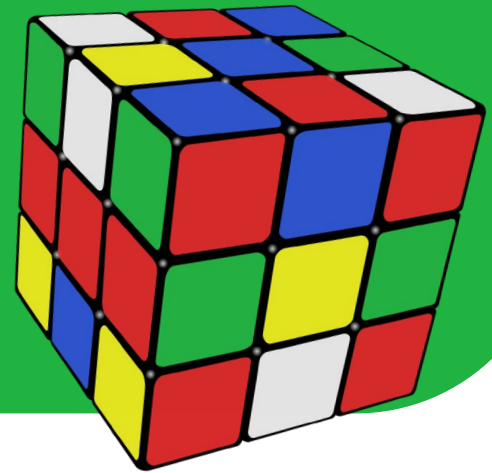
Questions to ask in I/C with client:

Inquire about their mental health, religion, family history, socioeconomic hx, romantic relationships, education, employment, physical health, prior incarcerations, contacts w judicial systems, contact information for family and get multiple releases signed.

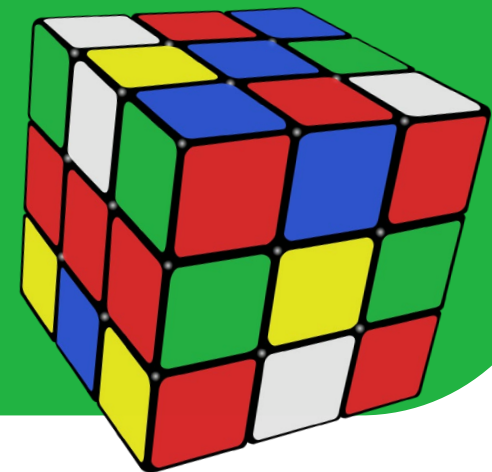
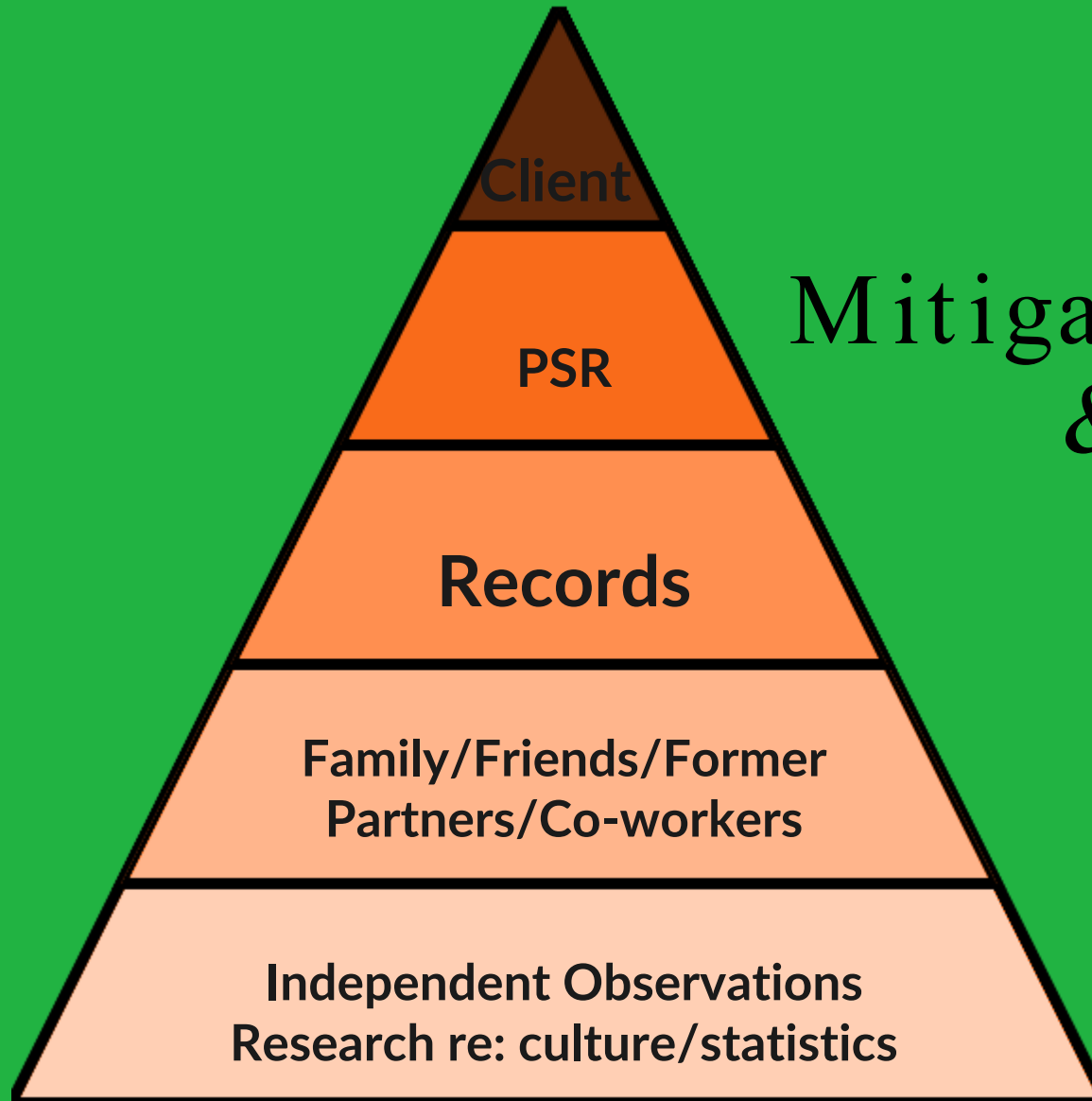


What is Mitigating Evidence

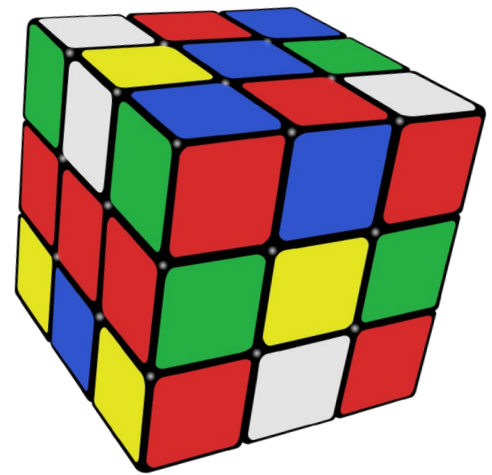
- ★ Mental Health Problems
- ★ Intellectual disability formerly called Mental Retardation
- ★ Trauma/PTSD
- ★ Remorse
- ★ Age of Client
- ★ Childhood abuse or Neglect
- ★ Absence of prior criminal record
- ★ Length of prior incarcerations
- ★ Alcohol and Drug Use
- ★ Culpability or role in crime
- ★ Socio Economic Background
- ★ Cultural diversity



Mitigating Evidence & Information



How To Conduct a Quality Mitigation Investigation



Developing Mitigation Plans

Plan
(case conference)

Talk with your
client

Location and
Witnesses

Develop themes

Communication
regularly among
all team members

Support
Venting
Feedback



Developing Mitigation Plans

What do we want
the Court to know
about our mitigation
investigation?

What can help?

What would hurt?

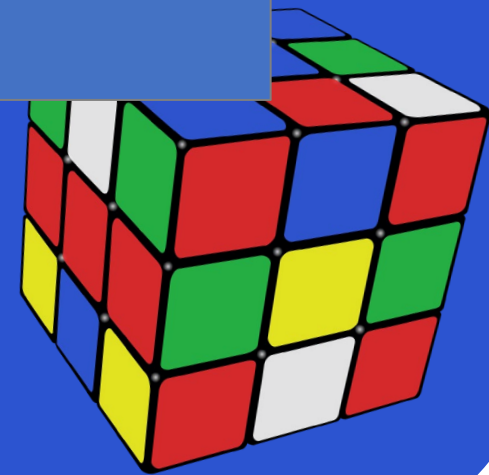
Who will we need?

What do we know?

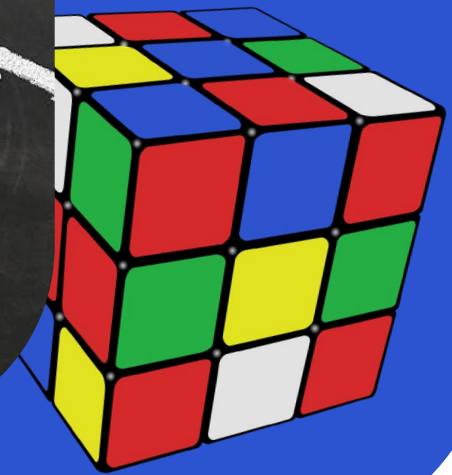
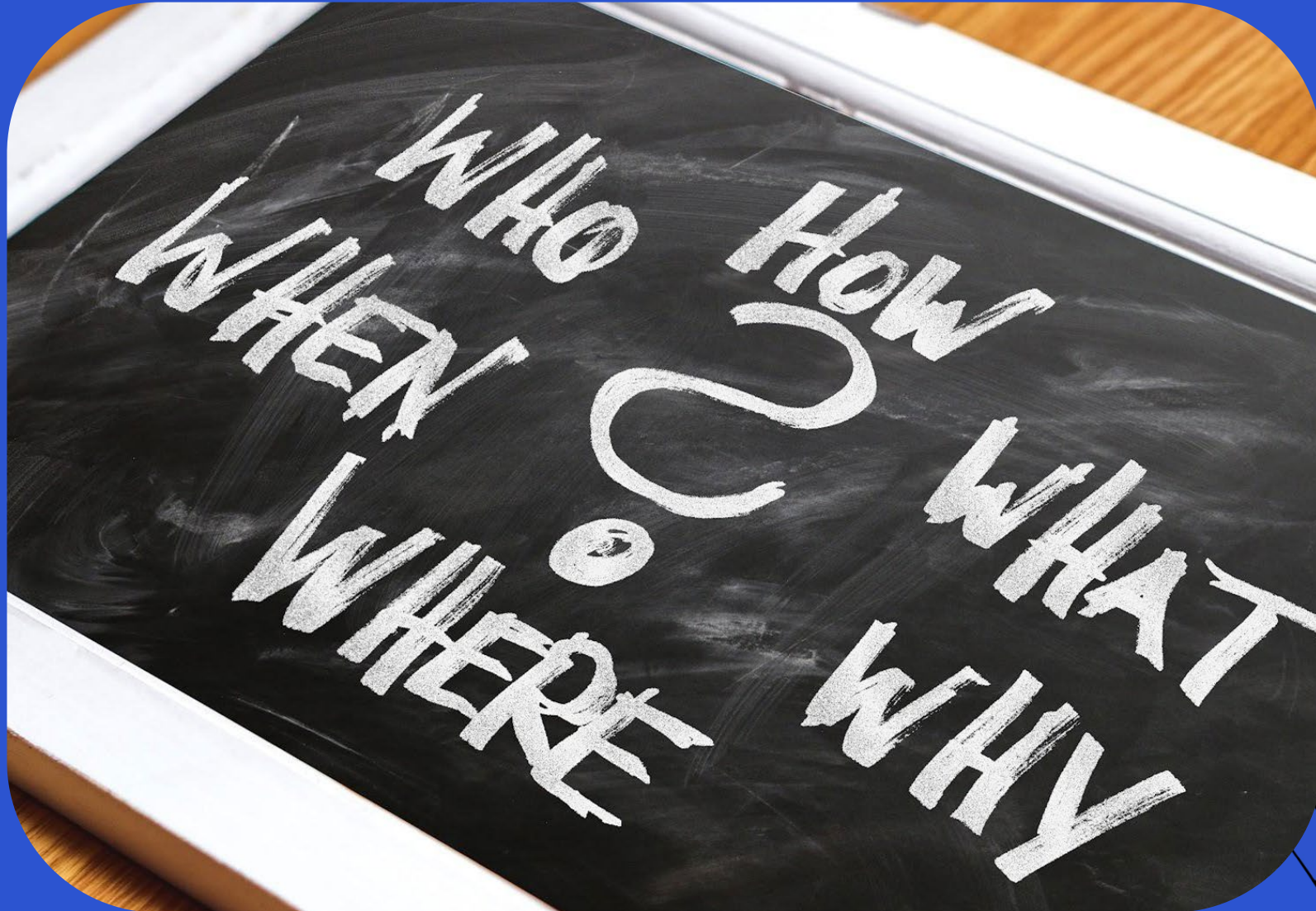
What don't we
know?

What does the client
understand/know?

What has
changed....and so on
....and so on...?

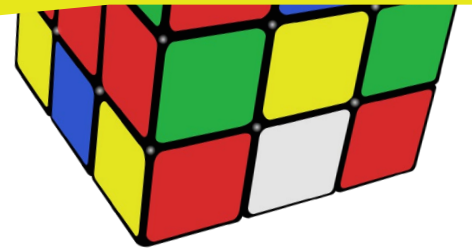


What's Your Plan?





Identifying Mitigation Themes & Records



REMEMBER:

The Power of a STORY



Draws in the listener, reader, decision maker

Makes them listen + care

Reaches them in a memorable way

Shapes the way they understand our client + the case

Impacts the decisions they have to make

Themes

- ★ Relative culpability
- ★ Circumstances of the crime
- ★ Youth of defendant
- ★ Pressures on the defendant at the time of the crime
- ★ Past criminal record
- ★ Mental health, medical, intellectual disability
- ★ Trauma, Abuse, Neglect
- ★ Family patterns, support
- ★ Childhood circumstances
- ★ Parental whitewashing
- ★ Good deeds
- ★ Religion
- ★ Prison behavior
- ★ Substance abuse
- ★ Reentry issues
- ★ Military service
- ★ Children of defendant
- ★ Employment history
- ★ Education history
- ★ Athletics, arts, talents
- ★ Corruption

Who Should You Talk To?

(not an exhaustive list...)

- ★ Family & friends
 - Extended family & friends
- ★ Teachers
- ★ Preachers, ministers, priests, clergy
- ★ Neighbors
- ★ Coaches
- ★ Classmates
- ★ Peers
- ★ Other inmates
- ★ Spouse, girlfriends
- ★ Prison guards
- ★ Social workers
- ★ Parole officers
- ★ Co-workers
- ★ Work supervisors
- ★ Doctors
- ★ School nurse
- ★ Child care providers
- ★ Cafeteria lady

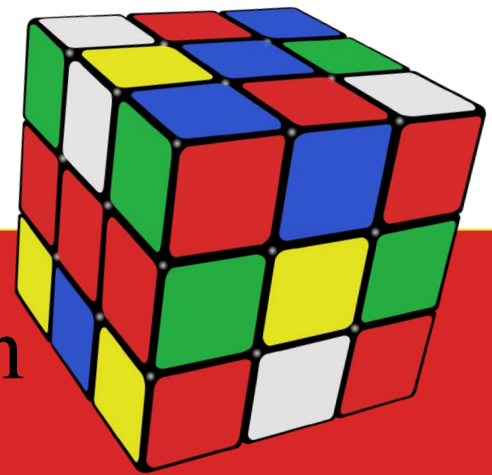
What Records Do You Need?

- ★ Educational
- ★ Medical
- ★ Mental health
- ★ Employment
- ★ Social Security
- ★ Financial
 - Utility bills, bank accts...
- ★ Birth records
- ★ Social services
- ★ Civil court records
- ★ Criminal records
- ★ Athletic participation
- ★ Family member records in all areas
- ★ Incarceration (esp juvy)
- ★ Community public health records
- ★ Public Housing
- ★ Military
- ★ DMV
- ★ Community Centers that provide services
- ★ Child Care Providers
- ★ After School Programs
- ★ Church bulletins

Types of Demonstrative Aids

- ★ Genograms
- ★ Timeline
- ★ Scrap Books
- ★ Photo albums

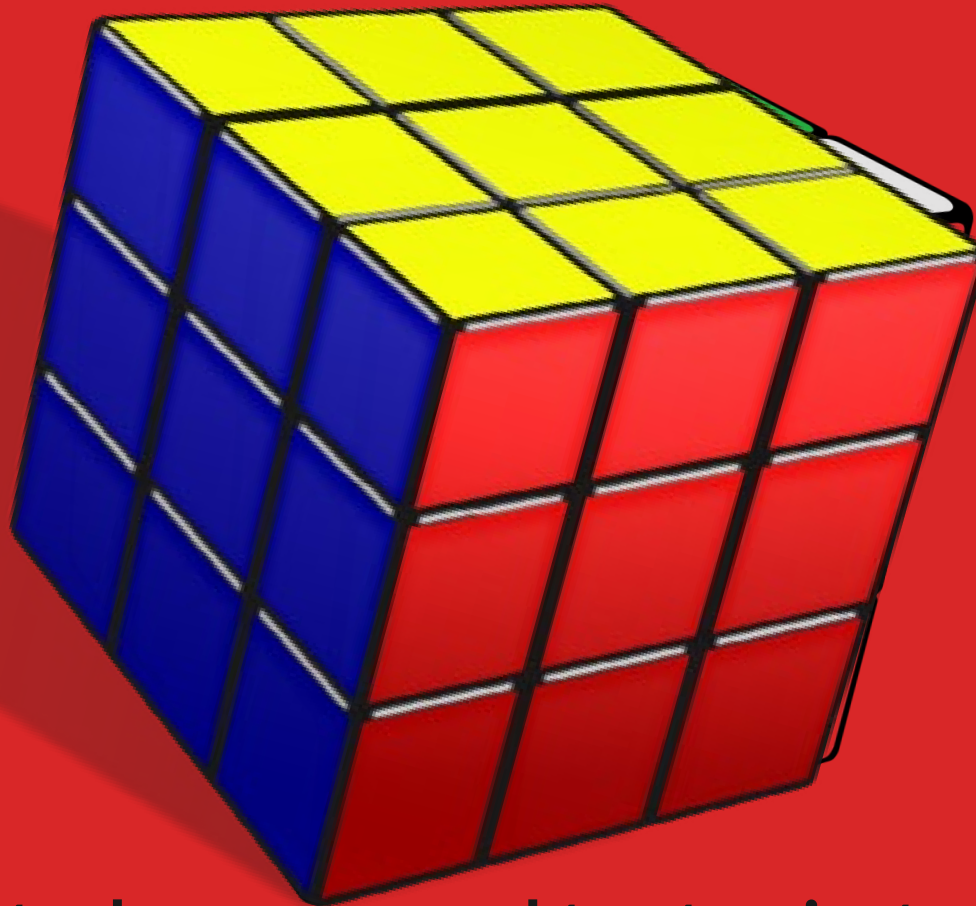
How to Effectively Present Mitigation





Components of Effective Mitigation/Sentencing Memos

- ★ Pictures
- ★ Support Letters
- ★ Videos (Trial)



“There comes a point where we need to stop just pulling people out of the river. We need to go upstream and find out why they're falling in.” - Bishop Desmond Tutu