



EMPOWERING TRIBAL COURTS AND PRO SE CRIMINAL DEFENDANTS

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DISCLAIMER

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NATIONAL AMERICAN INDIAN COURT JUDGES ASSOCIATION

NAICJA is a national association comprised of tribal and state justice system personnel & others – including judges, peacemakers, court administrators, court clerks, Indian law practitioners, and scholars – devoted to supporting and strengthening tribal justice systems through education, information sharing, and advocacy.



OUTLINE

- Pro Se Resources Basics
- Who is Nevada Legal Services
- Holistic Defense/Tribal Holistic Defense
- Creating Holistic Defense within Nevada Legal Services
- Resource Mapping and How-To's
- Life of a Criminal Case
- How to Create a Pro Se Packet
- Example Pro Se Packet
- Questions

PRO SE RESOURCES BASICS: WHAT IS PRO-SE?

- “Pro Se” is Latin for “on one own’s behalf.”
 - Other terms you might use include: self-help, do-it-yourself (DIY), how-to
- Types of Pro Se Resources
 - Information Sharing and Repositories
 - Forms and Examples
 - Instructions and Explanations
 - Guidebooks and Handbooks
 - Drop-In Clinics
 - Education and Classes

PRO SE RESOURCES BASICS: RESOURCES OFFERED CURRENTLY

- Does your tribal court offer any current pro se resources?

PRO SE RESOURCES BASICS: WHERE TO START

- Where to start or what to improve on:
 - Listen to the community to identify biggest needs.
 - Discuss with court staff and partners.
 - If your tribal court is new to pro se resources, start small or identify one area to begin with.
 - If your tribal court has well established pro se resources, what area needs improvement? Do you need a refresh?

PRO SE RESOURCES BASICS: CIVIL

- Civil-specific pro se resources
 - What type of civil hearings are heard in your tribal court?
 - What type of departments does your tribe have?
 - Levels of pro se and self-help resources
 - On-Reservation
 - Off-Reservation
 - Alaska Native/Native American
 - City or County
 - State

PRO SE RESOURCES BASICS: CRIMINAL

- Criminal-specific pro se resources
 - Your Tribe doesn't provide a public defender or has an indigency standard that not everyone meets
 - Conflicts when you only have one public defender
 - Pro se clients by choice or who chose not to use the public defender

PRO SE RESOURCES BASICS: NON-LEGAL

- Non-legal specific
 - Identification
 - Benefits
 - Notary
 - Power of Attorney

PRO SE RESOURCES: WHY ARE THEY IMPORTANT?

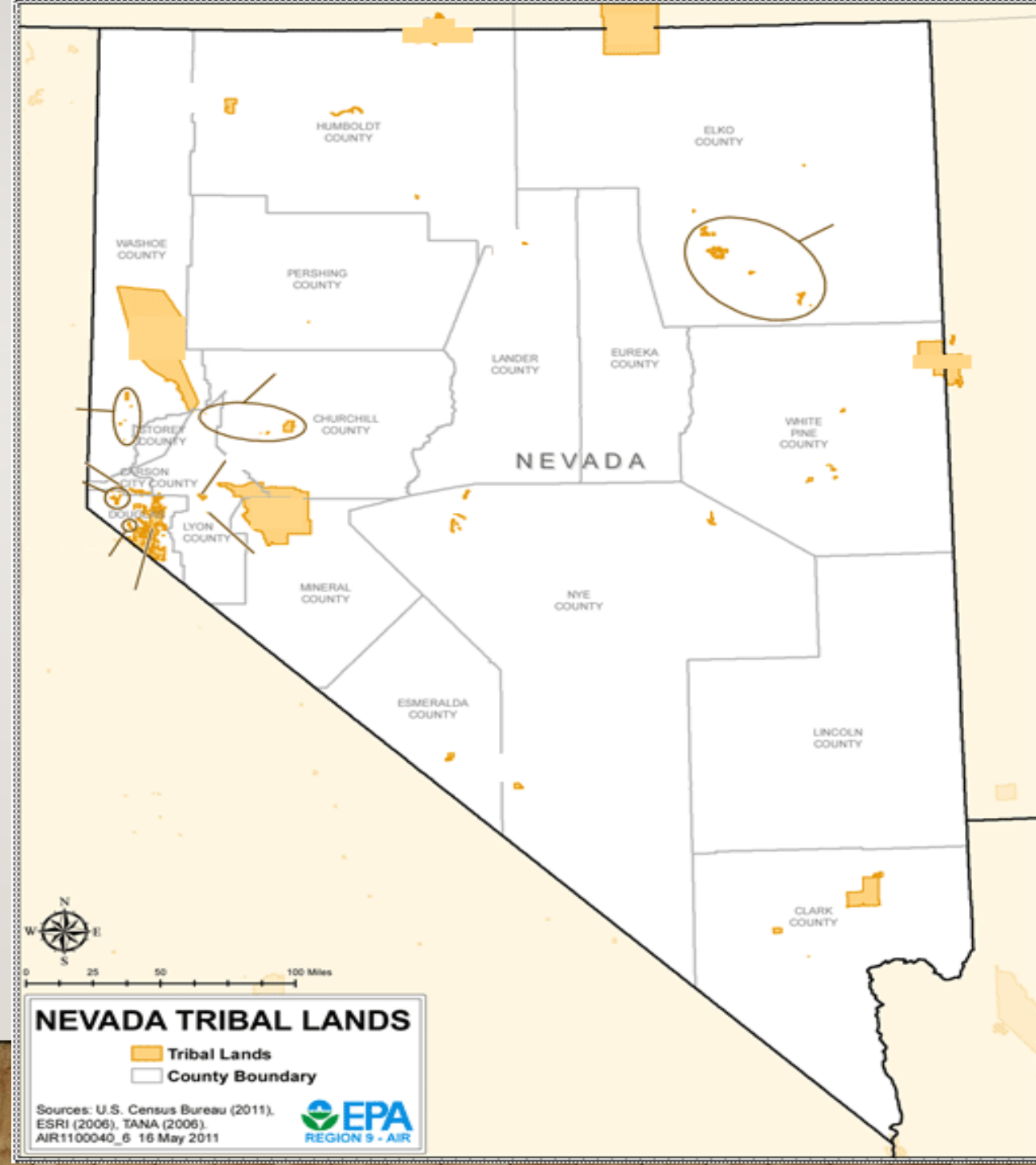
- Why is maintaining pro se resources important?
 - Justice and Fairness
 - Time and Resources
 - Partnerships and Community Resources

A BRIEF OVERVIEW OF NEVADA LEGAL SERVICES

- It is the Mission of Nevada Legal Services to strengthen the community by ensuring fairness and providing equal access to justice for low-income Nevadans.
- Areas of Practice:
 - Housing and Homelessness
 - Consumer / Foreclosure
 - Public Benefits
 - Record Sealing- Eviction and Criminal
 - Name / Gender Marker Changes
 - Employment Discrimination
 - Estate Planning
 - Ryan White Project
 - Indian Law Project
 - Veterans Services
 - Pro Bono Program

NEVADA LEGAL SERVICES INDIAN LAW PROJECT

- State legal services agency that houses the Indian Law Project, which offers civil and criminal legal assistance primarily in tribal courts
- Active public defender contract in a tribal community
- Geographically isolated community with limited access to services



HOLISTIC DEFENSE DEFINED

- Combines aggressive legal advocacy with a broader recognition that for most people arrested and charged with a crime, the case is not the only issue with which they struggle.
- To be truly effective advocates, the scope of the work needs to be broad to include both collateral consequences and enmeshed penalties and underlying issues, legal and non-legal.
- Started in the Bronx Defenders, continued with the Confederated Salish and Kootenai Tribes. Learn more about the work of the CSKT Defenders at [CSKT.org/Tribal-Defenders-Office/](https://www.cskt.org/Tribal-Defenders-Office/)

TRIBAL HOLISTIC DEFENSE FOUR PILLARS

- Seamless access to services that meet clients' legal, social, and cultural support needs
- Dynamic, interdisciplinary communication, including collaboration between inter-tribal services
- Advocates with an interdisciplinary skill set and cultural competency
- Building trust through a robust understanding of, and connection to, the tribal community

HOLISTIC DEFENSE PILOT PROJECT

- Being implemented with Alaska Legal Services, Oklahoma Indian Legal Services, and Nevada Legal Services
- Incorporating holistic defense into criminal representation and certain civil representation
- Fostering the development of an interdisciplinary skill set within their offices and positions
- Identifying gaps to adapt practice into practical application

NEVADA LEGAL SERVICES AND HOLISTIC DEFENSE

- Goals of the project:
 - Address lack of [capacity](#)*
 - Increase access to services
- Developing a conflict guide to give to clients when Nevada Legal Services is unable to represent them to guide them and the court through pro se representation
- Partnering with service providers who can support remotely for collateral consequences

BUILDING OUT HOLISTIC DEFENSE

- Establishing a presence within the community
- Involving the judiciary and law students
- Building urban-to-rural bridges
- Targeting high-need populations
- Developing non-traditional partnerships
- Minimizing geographic divides with technology
- Planning as a community

RESOURCE MAPPING STEPS

- Steps Nevada Legal Services took:
 - Partnered with University of Nevada, Reno School of Social Work to begin to develop a social work perspective.
 - Began reviewing case files for re-occurring health, social, familial, and monetary factors leading to recidivism.
 - Collaborated with Ft. McDermitt tribal resources → Collaborated with state tribal resources → Collaborated with state resources.
 - Drafted a resource map with particular selections to be given to clients or community members as needed.

RESOURCE MAPPING EXAMPLE

Fort McDermitt Head Start

- Location: 111 North Reservation Road, McDermitt, NV 89447
- M-F 8-4

Nevada Urban Indians

- Location: 9480 Gateway Dr. STE 100 Reno, NV. 89521
- Sliding fee scales
- Medical Clinic: Referral Assistance, Immunizations, community health services
- Mental Health: (provided by a licensed Clinical Social Worker)

Attorneys and Lay Advocates for Tribal Court Cases

- Norman Allen
- Rosalie Allen -
- Debra Amens -
- Julie Cavanaugh-Bill
- Jack Duran -
- Steve Evenson -
- Jeanne Mortimer -
- Mitchell Wright -
- Rebecca YoungMan

RESOURCE MAPPING ACTIVITY

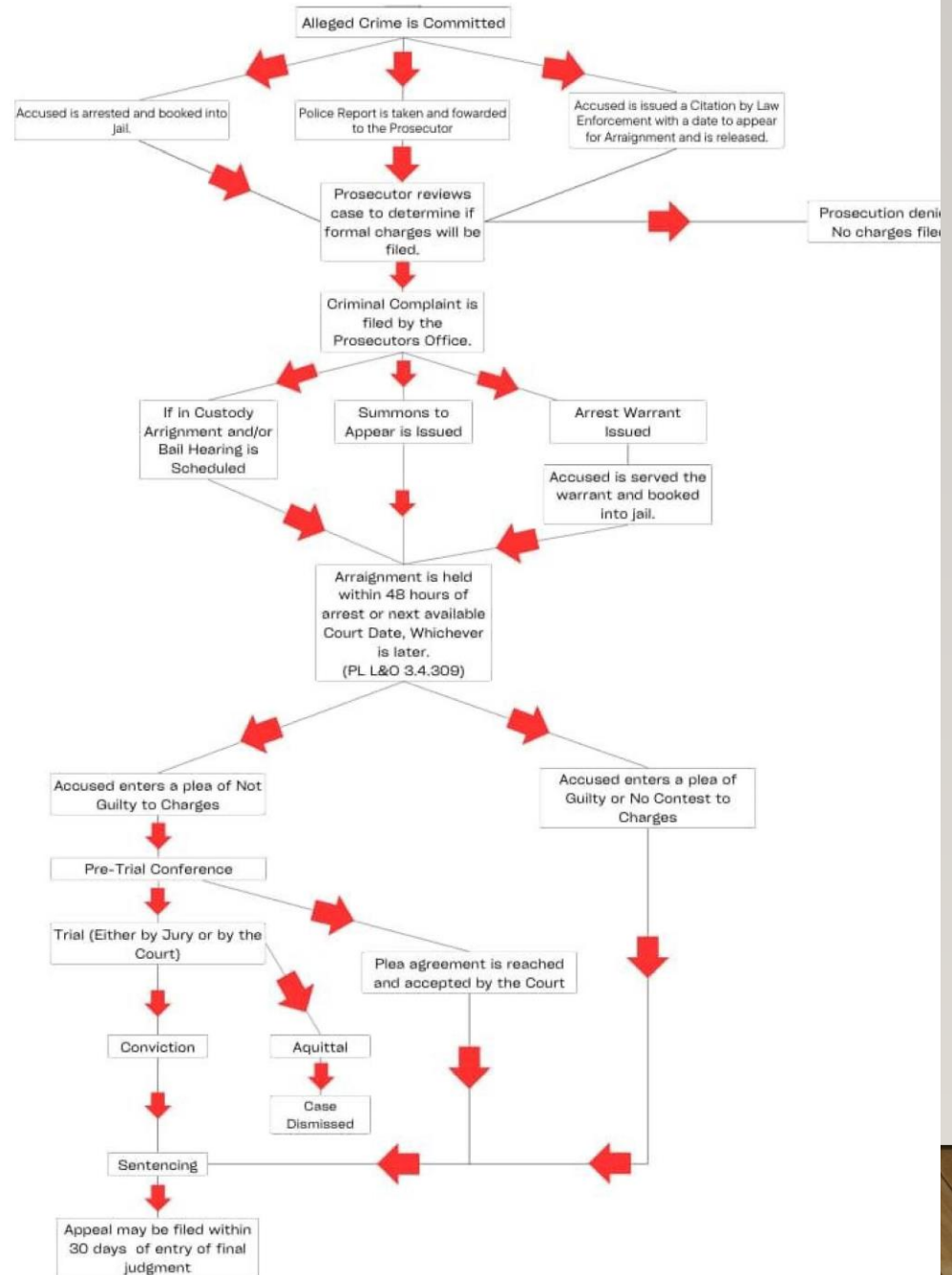
Tribe A is located entirely within State Z. Tribe A has its own criminal court that meets once a month. The Judge reports to you that she is seeing a high level of recidivism among people she orders to get psychiatric evaluations as apart of their sentence. The Judge reports that people are either experiencing months long waits, drawing out the conclusion of their case, or upon hearing of the wait not engaging with the service. There is one psychiatrist for the entire Tribe. Some preliminary research shows that there are two psychiatrists in-town that accepts the insurance the tribal members have (approximately a 20-minute drive). You also discover that nearby Tribe B (approximately an hour drive) has an additional psychiatrist on staff.

RESOURCE MAPPING ACTIVITY QUESTIONS

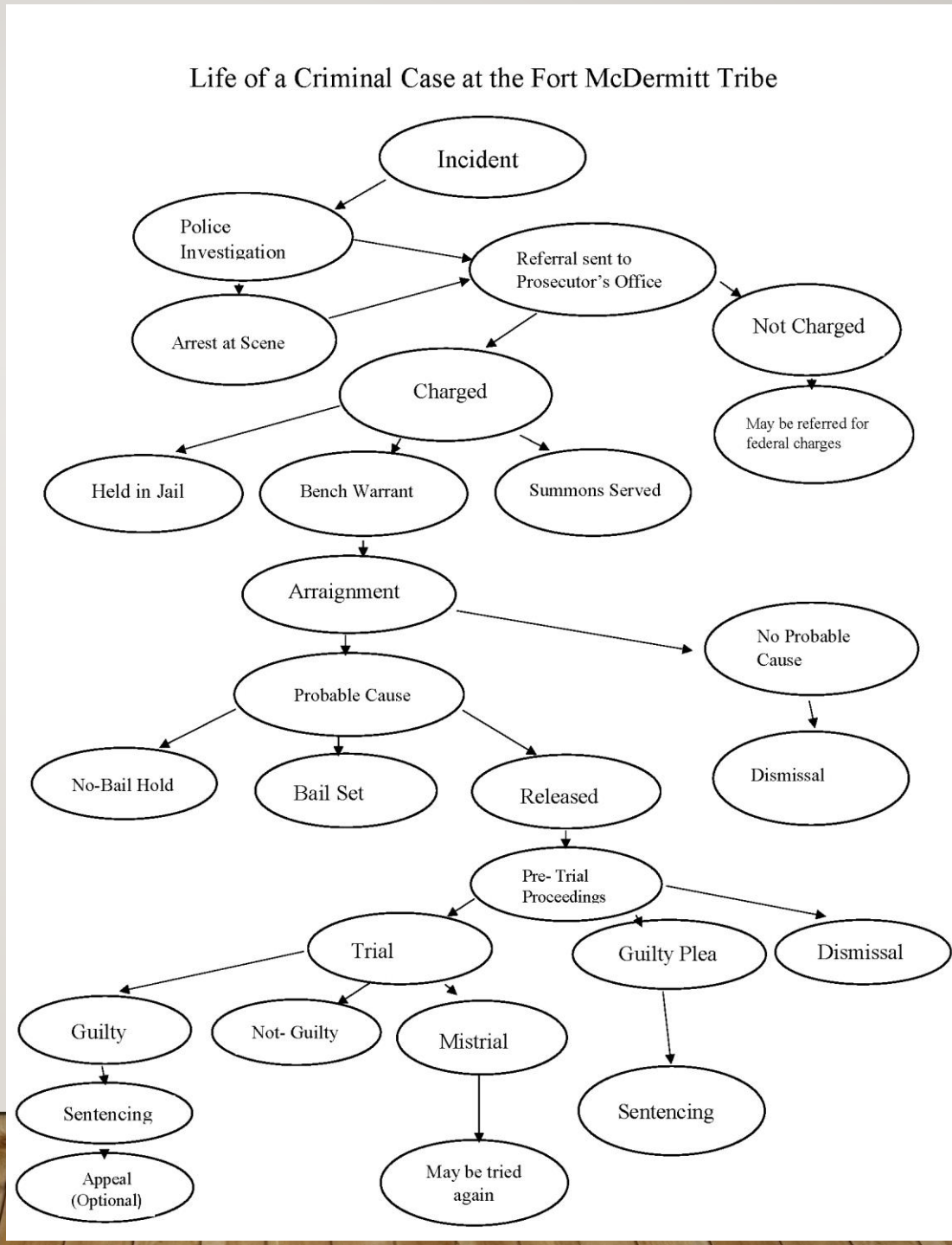
- What are some strengths Tribe A has?
- What are some community resources that can be relied upon?
- What areas do you need to do further investigation on?

LIFE OF A CRIMINAL CASE

Criminal Caseflow



LIFE OF A CRIMINAL CASE (CONT.)



STEPS TO CREATE A PRO SE PACKET

1. Determine if there is a need from within the Tribe and if the Tribe is interested in this resource.
2. Collaborate on the legal issue you want to center your pro se packet around.
 - a. Are there common criminal issues that members typically need assistance with? For example- traffic tickets, missed court dates, failure to pay fines, etc.
 - i. Great time to foster community input!
 - b. Nevada Legal Services has opted to do one legal issue per packet.
3. Look to your code!
 - a. Your code will help you determine what language your members will encounter. May be helpful to provide definitions or synonyms for complex legalese.
 - b. Your code will also help you format your blank motion form. If the code requires certain information within the motion, make sure to include that.
 - c. Your code will also help you draft your life of a case infographic, should you choose to make one.
4. Ask for member and community partner input before releasing your final product.

PRO SE PACKET CONTENTS

- Cover Page
- How the court clerk can and cannot assist a pro se defendant
- General information on court conduct
- Common “legalese” defined
- Explanation of what an Order to Show Cause is and common defenses
- An Order to Show Cause Response Form with instructions
- A complete sample Order to Show Cause Response form with evidence exemplified

COURT CLERK CAN AND CANNOT

Court Clerk Can and Cannot

Court Clerks are not attorneys and cannot provide answers to specific questions about court rules, procedures, and practices. If the Court Clerk does not know the answer to a particular question or is unable to provide you with the answer, she may refer you to the tribal code or to an advocate or attorney. The following lists certain ways a court clerk can and cannot assist you.

CAN	CANNOT
CAN give general information	CANNOT give legal advice
CAN answer <u>general</u> questions about how the court works	CANNOT explain judicial decisions, let you speak to the judge outside of the courtroom or talk to the judge about what will happen on your case
CAN provide you with contact information for attorneys or advocates	CANNOT refer you to specific lawyers, contact advocates or lawyers for you, or give answers that involve legal advice
CAN give you <u>general</u> information about court rules, terminology, procedures, and practices.	CANNOT advise you as to how the court rules and procedures will be applied to your case
CAN give you legal definitions	CANNOT give you legal interpretations
CAN give you procedural definitions	CANNOT give you procedural advice
CAN give you cites of statutes, court rules, and ordinances	CANNOT complete research of statutes, court rules, and ordinances for you
CAN give you public case information	CANNOT give you confidential information
	CANNOT deny access, discourage access or encourage litigation
CAN give you forms and instructions on how to complete them	CANNOT fill out form for a party <u>except</u> for persons with a disability
CAN review your form by checking for signatures, case numbers, and dates	CANNOT correct forms for you or tell you what corrections should be made
CAN usually answer <u>general</u> questions about deadlines	CANNOT change an order issued by a judge

EXAMPLE OF PRO SE ORDER TO SHOW CAUSE PACKET

Instructions for Order to Show Cause Response Form

General Directions

- Please write as clearly as possible on all parts of this form.
- If you do not know an answer to a question on the form draw a line through that part or write “ unknown” do not leave sections blank that apply to you.

Specific Directions

- (1) Write your name as it appears on your court order.
- (2) Write your case number. You can find it on your Order to Show Cause, the posted court docket, as well as your original court paperwork.
- (3) Circle yes or no.
- (4) If no, go to the end of the form where the signature and date lines are at the bottom.
- (5) The Order to Show Cause will list what specific parts of the Court Order you did not follow, list them here.
- (6) Circle yes or no.
- (7) Provide a brief overview of why you did not comply with the Court Order. This could be for things like sickness, transportation issues, etc. You are not explaining your entire case here just providing a preview to the court here. You will have more time to explain yourself to the judge when you are in front of him, be very brief here. You may use the back of the page if you really need to.
- (8) Circle yes or no.
- (9) Say what type of evidence you will be providing and where that evidence is located such as your text messages or Facebook.
- (10) If you have printed evidence hand it to the judge when you hand him this form.
- (11) This statement promises that everything you have stated above is the truth to the best of your knowledge.
- (12) Sign your name clearly to the best of your ability.
- (13) Provide the date you are signing on.

Order to Show Cause Response Form

Name (1): _____

Case Number(2): _____

Do you know why you there is an order to show cause against you (3)? (Y / N)

If no, please go to the end of this form (4). If yes, please list which order(s) of the Court you did not follow which caused this Court to issue this order (5).

Do you have a legitimate reason for not complying with the court order (6)? (Y / N)

If no, please go to the end of this form (4). If yes, please briefly explain your reason for not complying with the court order, you may use the back if needed (7).

Do you have evidence to prove your reason (8)? (Y / N)

If no, please go to the end of this form (4). If yes, please list the type of evidence and if the evidence is printed or on a cell phone (9). If the evidence if printed, please hand it to the judge when you submit this form (10).

I hereby certify that the foregoing information is true to the best of my ability and knowledge under the penalty of perjury (11).

Signature (12) _____

Date (13) _____

Order to Show Cause Response Form

Name (1): Jane Doe

Case Number(2): unknown

Do you know why you there is an order to show cause against you (3)? (Y / N)

If no, please go to the end of this form (4). If yes, please list which order(s) of the Court you did not follow which caused this Court to issue this order (5).

I did not come to my last court date.

Do you have a legitimate reason for not complying with the court order (6)? (Y / N)

If no, please go to the end of this form (4). If yes, please briefly explain your reason for not complying with the court order, you may use the back if needed (7).

My son was very sick with the stomach flu and I needed to take him to the clinic for medical treatment.

Do you have evidence to prove your reason (8)? (Y / N)

If no, please go to the end of this form (4). If yes, please list the type of evidence and if the evidence is printed or on a cell phone (9). If the evidence if printed, please hand it to the judge when you submit this form (10).

Doctors note and printed text messages to my sister.

I hereby certify that the foregoing information is true to the best of my ability and knowledge under the penalty of perjury (11).

Jane Doe
Signature (12)

07/06/2023
Date (13)

PRO SE PACKET EXAMPLE MOTION

EXAMPLE EVIDENCE

Authorization of Work or School Absence

Date: June 7, 2023

Wellness Health Clinic

123 Main Street

Franklin, ~~Genovia~~ 12345

(775) 555-1234

RE: Joey Smith D.O. [B.:](#) 01/01/2020

To Whom It May Concern,

Please excuse Joey Smith and his mother, Jane Doe, from all activities that took place on June 7th, 2023 as they were seen at the Wellness Health Clinic. They may return to all regularly scheduled activities on June 9th, 2023 after one day of rest.

Sincerely,

Doctor Johnson

Dr. Johnson

Joey has been up all night with a horrible stomach bug, I think I need to take him to the clinic. Can you take Allie to school??? I'll owe you forever.

Wednesday 6:09

Ya no problem I'll come get her, I hope he feels better soon. Sorry to hear that.

Wednesday 8:17

Finally made it to the clinic. Joey has a 102 fever and feels miserable. And to top it off there's a million ppl here ugh

Wednesday 8:18

Are they going to see him quick??? He's only 3 and it's dangerous to have a fever that young!!

Wednesday 1:39

Finally saw doc, he has the flu :(Can you pick Allie up, I don't think I'll be home in time ugh. They only gave him fluids and like one pill.

Wednesday 1:52

I got you, you need anything from the store?



ANY QUESTIONS?



CONTACT INFORMATION

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