

CLIENT INTERVIEWING

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Nothing will establish a positive client-lawyer relationship more easily than a comfortable interview. While the topics may be difficult, providing a safe physical and emotional setting for the client will give her the support she needs to tell her story.

The lawyer must remember that clients who have experienced abuse may need more time to become comfortable in the professional relationship. Some fears and concerns that may weigh heavily on the client are:

- For many years she may have been warned by her abuser not to disclose the fact that she is being abused, let alone the details.
- She may be concerned that somehow the abuser will learn about her disclosures and may believe that she is at higher risk because of the disclosure. Advising the client of lawyer-client privilege and an explanation of what that entails will reassure the client of confidentiality. See Confidentiality in this Chapter
- An abuse victim may feel shame and some responsibility around the abuse, limiting her ability to disclose details early in the professional relationship.
- This may be the client's first experience with an attorney, causing an anxiety all its own.
- Other victims may exhibit opposite responses during the initial interview. For example:
 - o A client may be eager to tell her story. She may feel relieved that there is a professional willing to listen.
 - o She may talk continuously out of anxiety about the new relationship.
 - o The client may have many questions for you, and she may prefer to address those questions rather than discuss the topics you have in mind.

While clients in trauma may react to this new relationship in varying ways, there are techniques that the attorney may employ to provide the client with a respectful and beneficial interview. If the lawyer speaks in a clear and respectful manner, the client will, with time, become comfortable and able to provide the needed information.

- Give the client your full attention. It is difficult to establish a relationship if you are distracted by note taking, telephone calls or staff interruptions.
- Make a record of your conversation immediately following the interview.

- “Wrap up” the interview by letting the client know that there is certain statistical information you will need for court filings and at that point, take notes as to dates of birth, children’s names, etc.
- An exception may be when a client is having difficulty talking about her experiences. Inquire as to the statistical information first and then place your note pad down for the balance of the interview, giving her your full attention.
- Become comfortable with silence. Giving the client quiet time to consider her answer serves her well, as it will the interviewer.

You will develop instincts over time as to what form of guidance and space the client needs to tell her story. You will need to set aside your own discomfort and focus on the client’s needs. These interviews will take time. Generally, one and one-half hours is a comfortable length of time to obtain a good sense of the client and her case. Any longer time would be too stressful for the client, absent extraordinary circumstances. Some clients may have limited time, however, because of a need to account for their whereabouts to the batterers. You may find the following strategies may help make your client more comfortable:

- After some pleasantries, simply ask the client what brought her to your office.
- If the client was referred through a *pro bono* panel or other domestic violence resource, acknowledge the source and ask what it is the client hopes to accomplish through your services.

Many clients will not identify themselves as abuse victims. They might consider their experience to be typical marital or relationship problems. It may not be until the second or third interview that the client begins to see herself as being in an abusive relationship. See Screening Guidelines in this Chapter.

Sexual abuse can be especially difficult for a client to reveal. Unless the information is critical to an upcoming hearing, you may want to inquire as to any of the abuser’s sexual behavior that made her uncomfortable in a later interview. For the male interviewer where the client is reluctant to discuss sexual acts, consider asking a female lawyer or paralegal to conduct this part of the interview. Explain to your client why you are changing interviewers at that point.

Take Care of Yourself

Be prepared for your own emotions to surface during or after interviews with an abused client. You may feel anger, sorrow, shock, fear or denial. An entire range of thoughts and feelings may surface. Your own abuse issues might be triggered. You may want to:

- Discuss these emotions with a mental health professional.
- Talk with an experienced domestic violence attorney or advocate about how he or she deals with these feelings.

- Make certain that your feelings and history are not driving your strategic decisions and/or your relationship with the client.

Dealing with your own responses is critical to establishing an open relationship with your client.

- Suspend your judgment. Behavior that may ordinarily be puzzling or even shocking to you is better understood when one has studied the dynamics of abusive relationships.
- Reassure your client that she did not deserve the abuse that she suffered.
- Assure her that the abuser is solely responsible and accountable for his behavior.
- Discuss how she is feeling about the legal process and issues it raises.
- Let her know that her safety is your first concern and that you and she will need to have on-going discussions about her safety as the case proceeds and decisions are made. See Safety Planning in Chapter Two.

The Importance of Language

The language that the lawyer uses is critical to maintaining a healthy lawyer-client relationship. See Cross Cultural Communication in this Chapter.

- Clarity is crucial. Clear and precise language will serve you well. Your voice has a great deal of authority with clients. Abuse victims are conditioned to listen carefully to the abuser's instructions. Failure to follow them could be used by the batterer as an excuse for further abuse.
- For that reason, abuse victims will often follow your advice in a literal sense. Sarcasm and irony could be dangerous when used with clients recently separated from their batterer.
- Be sensitive to any special circumstances of your client's case. For example, if your client is in a same sex relationship, be mindful to adjust your speech accordingly. Your client, a child or partner may have a disability. Your client may not be able to read well. Being respectful of those circumstances is critical.
- Respectful, mindful speech will serve you well in all aspects of life; it is critical in working with trauma victims.
- Ensure that the staff treats the client in a respectful manner, as they would any other client.

Often attorneys are reluctant to be direct and open with abuse victims. We may feel great empathy with the client and want to shield her from any further distress. The client will appreciate your honesty. Abuse victims are often very strong. They have learned how to

survive. It will be very difficult for them if they learn that you have not been forthright in your information and advice.

- Be direct and honest with your client. While emphasizing the strengths of your client's case, be realistic in setting outcome expectations.
- Do not be afraid to tell a client that you need to research a matter, or that you need time to think about an issue. Your thoughtfulness and honesty will be appreciated.
- Discuss with your client how to prepare for court and what she might expect there. Avoid predicting what a judge or jury is likely to do.
- Each time you interview your client, ask what his/her worst fears are about the court proceedings. It will help you prepare her for her testimony, deposition, etc. You will be able to practice with her how she will respond to questions raised by the other side. More often than not, you will be able to alleviate your client's fears.

Setting Boundaries

Setting and recognizing appropriate and professional boundaries is critical to the lawyer's emotional health and the client's safety. The lawyer must recognize the limits of his or her role. The lawyer might at first feel obligated to assist the client in all aspects of her life. Resist! You can only do your job as a lawyer and provide referrals for other services.

- Respect that you are trained as a lawyer. Should your interviews stray too far from the information that you need for safety planning and the case, you might be left with less time and energy for the legal effort that lies ahead.
- You have been retained as a lawyer, not a therapist. While emotional and mental issues must be addressed in any abuse case, be prepared to discuss mental health referrals with your client. There are many sliding scale mental health programs available. Your local shelter advocates may advise you as to which therapists understand domestic abuse issues. Alcoholics Anonymous and Al-Anon are excellent, free referrals, where appropriate.
- You could create a dangerous dependency if you take on all of your client's problems. Do you really want her calling your office rather than 911 if her partner is breaking into her home?
- Make clear during an interview the parameters your role and the roles that other professionals may have in her life.

Speak to your client about professional limits. While assuring her that her case is very important to you, letting her know your office practices as well as what is expected of her can be enormously helpful.

- Let the client know your policy on returning telephone calls. (e.g., you return calls within 24 hours or staff members may contact her if you are out of the office).

- How can she contact you in an emergency? Is there a staff member she may contact? Should she designate in messages whether or not an emergency exists?
- Help her sort out which professionals to contact in any given situation (e.g. the lawyer, the police, therapists or school administrators).

Finally, when completing an interview, finish on a hopeful note. Many women and families are hugely successful in separating from the abuser. They go on to lead independent and happy lives.

Let her know that she has shown a great deal of courage in surviving. She will appreciate your support and your optimism. Survivors want to know that life can be better. You are an important link to her hopeful future.

CHECKLIST

- ❑ Give the client a comfortable and safe environment for the interview.
- ❑ Speak respectfully and mindfully during the interview.
- ❑ Be aware of your own emotions and reactions. Do not let your feelings and/or history drive decisions in your client's case or your relationship with your client.
- ❑ Do not let your emotions rule the interview. This is not about your anger or horror at the events that have occurred.
- ❑ Be comfortable with silence. Simply waiting until your client has had time to think or gather herself will help her feel safe and heard.
- ❑ Trauma victims may need time to recover memories. Know that you may need several interviews with the client to obtain pertinent information.
- ❑ Be clear and thoughtful in the advice and information you give to the client.
- ❑ Be realistic and supportive during the interview.
- ❑ Be aware of your professional limits. Refer your client to others for support services such as domestic violence counseling, mental health or substance abuse treatment where appropriate.