Sanctuary for Families

INTERVIEWING YOUR CLIENT

An obviously critical component of effective representation in any legal matter is a trusting, open, and professional relationship between attorney and client. How to achieve such a relationship merits special consideration when representing an applicant for asylum. The client must feel comfortable enough to reveal details about traumatizing and at times extremely intimate experiences, such as domestic violence, rape, and female genital mutilation. Since adjudicators and opposing counsel will question your client thoroughly, you must be familiar with all aspects of your client's history. Therefore, your client must also be comfortable and trusting enough to disclose to you any illegal activity or other potentially harmful facts from their past. Starting off on the right foot is helpful in building an effective relationship with your client.

The First Meeting

For many of our clients, the intake interview in Sanctuary's office is the first time they ever speak about their past in a linear fashion and the harm they suffered. Soon thereafter, they find themselves in your office – perhaps in a conference room and amid a group of attorneys – under what can understandably be intimidating circumstances. Your client may have a hard time opening up right away.

A helpful way to begin a first meeting with a client is to introduce all the members of the legal team, making clear that you are the client's advocates and are not employees of any government. You might explain how and why your firm takes on cases such as theirs free of charge and describe the scope of your representation, i.e. that it is confined to immigration matters for the client or any family members you have already agreed to represent. If a member of your team has extensive experience with asylum cases you might mention that, and you can describe the close relationship you will maintain with immigration attorneys at Sanctuary for Families.

Confidentiality is critically important. Your client must understand the ethical rules that bind attorneys and the idea of attorney-client privilege. Your client should also know that you intend to speak with an attorney at Sanctuary about their case and other attorneys or paralegals at the firm, and why these individuals may become involved. Helping your client to understand your responsibility as their representative will also help them to begin to trust you.

You should also lay out your expectations for your client. For example, a client should be truthful and cooperative in the preparation of their case. Often a retainer letter that you have prepared ahead of time will serve as a springboard for this dialogue. While it makes sense to present this at the first meeting, please understand that your client may not read English or may be intimidated by an official document like this, so it is wise to offer some explanation of the routine nature of such agreements.

As a referral from Sanctuary for Families, your client has already met with an attorney who provided an overview of asylum law and procedure, as well as the benefits and risks of applying for asylum. Still, you and your client may find it useful to review this information at your first meeting so that you share common expectations for the intensity and duration of the process as well as the likely outcomes in their particular case.

In addition, your client is most likely living in poverty and may not have access to simple necessities like a telephone or subway fare. Before your first meeting ends, you may wish to inquire about your client's schedule so that you can set up your second meeting and to make sure that your client has a way to come to the meeting or that they know whom to ask for help. Your client might find it helpful to meet at regular days and times, at least at first, so that they can plan their work and childcare schedules around their legal meetings. Also offer your business card so that your client knows how to reach you in case they must cancel or reschedule.

Keep in mind that your client's religion, culture, gender, political views, education level, language abilities, etc., may be dissimilar from yours. These are all factors that may seem to alienate your client from you, but they can be overcome with patience and understanding. Please inquire about cultural competency trainings if you feel that would be useful to you or members of your team as they are offered around the city by Sanctuary staff.

If your client is ready, feel free to begin to discuss the details of their life history during the first meeting. You may wish to start by using the asylum application, or Form I-589, as a guide to ask simple biographical questions and to ease your client into talking about their past. Be aware that the more substantive questions on the form require a bird's eye view of the case that attorneys will have only after gathering and analyzing the facts of the case. When discussing details related to the asylum claim, some clients and attorneys begin chronologically, while others begin by focusing on the reason the client wishes to file for asylum and then filling in gaps in background details later.

Translation

If you are not able to work with your client in a language in which you are both fluent, you will have to use an interpreter. If you are representing your client in an affirmative asylum case, keep in mind that you will eventually also have to bring an interpreter with you who is not an attorney of record (i.e. someone who has not submitted a Form G-28 to USCIS for your client's case), so it is a good idea to use the same interpreter early on in your client meetings. You may wish to seek someone within your firm or hire an outside interpreter. Either is fine as long as the person is truly fluent in a language your client speaks fluently as well as English. Translation errors in the course of case preparation can significantly slow down the process but more importantly can lead to a lack of trust and confidence on the part of your client. It is critical that you and your team closely monitor all interactions between the interpreter and the client as sometimes an interpreter may not treat your client with the respect they deserve. In gender-based cases, a client may prefer to have an interpreter of their own gender or cultural background or may actually prefer someone who does not share their background. Attorneys are sometimes surprised to learn that a client held back information because they feared judgment by an interpreter of the same cultural heritage. The importance of an interpreter with a professional attitude and understanding demeanor is critical to your effective representation. Sanctuary staff can always help with issues that arise in the course of working with an interpreter.

Interviewing for Case Preparation

Once you have met with your client and gathered their basic biographical data, you must interview your client extensively until you have a clear picture of their life history and the facts that are relevant to their asylum claim. You will ultimately be submitting an affidavit from your client that

provides details about any past persecution they endured and describes their fear of future persecution. Many applicants do not realize that events in their lives are relevant or amount to persecution. Therefore, you may need to spend quite a bit of time to explore your client's whole life history to understand the context in which their persecution occurred.

Sanctuary attorneys typically spend four to six hours interviewing before drafting the applicant's affidavit. Even if the first draft contains many gaps and questions, it often helps to map out the client's story so that you gets a sense of the periods or topics that still need to be addressed. This helps keep the interviewing efficient, which may be best for you and your client.

Please remember that by interviewing your client, you are asking them to relive many horrific moments from their past. Reassure your client that even though it is difficult to go through this process, it is essential to their success in their claim, is good practice for the interview or questioning in court, and may ultimately result in a feeling of relief. Some clients even report a catharsis after telling their stories and coming to terms with them. Still, it is important to respect the negative psychological impact of interviewing, and while it must be done, it should be done as carefully and efficiently as possible so that your client is not forced to retell their story too many times.

When your client tells you details about specifically traumatizing events, such as female genital mutilation, rape, or other torture, your client may in fact experience a flashback or other psychological phenomenon that will be physically and mentally taxing. You may not witness these effects as they may occur when the client leaves your office. Please check in with your client periodically, especially after a particularly difficult interview, and stay in touch with your contact at Sanctuary. You may wish to keep informed about your client's mental health care providers in case you have to reach out for help after a particularly emotionally challenging interview for your client. Some clients prefer to have warning that a difficult meeting is coming up so that they can discuss their fears with their counselors and even set up a counseling session for immediately after your meeting. Invite your client to make a plan with you when you can predict that difficult issues will come up at future meetings.

Additional Resources

Many books, articles, and other resources exist to assist with interviewing clients generally as well as clients from groups with specific needs. You may find some of the following articles helpful for interviewing survivors of gender-based violence:

Understanding Gender-Based Violence

- Power and Control Wheel, https://www.sanctuaryforfamilies.org/wp-content/uploads/sites/18/2015/07/Power-Control-Wheel.pdf

- Forms of Abusive Behavior, https://www.sanctuaryforfamilies.org/wp-content/uploads/sites/18/2015/07/Forms-of-Abusive-Behavior.pdf

- Melissa Brennan & Pooja Asnani, "Remedies for Immigrant Victims of Domestic Violence," in Lawyer's Manual on Domestic Violence: Representing the Victim, 6th Ed. (Mary Rothwell Davis, Dorchen A. Leidholdt & Charlotte A. Watson eds. 2014), https://www.nycourts.gov/ip/womeninthecourts/pdfs/DV-Lawyers-Manual-Book.pdf

- Dorchen A. Leidholdt & Sayoni Maitra, "Emerging Issues: FGM, Forced Marriage, Honor Violence & Trafficking," in Lawyer's Manual on Domestic Violence: Representing the Victim, 6th Ed. (Mary Rothwell Davis, Dorchen A. Leidholdt & Charlotte A. Watson eds. 2014), https://www.nycourts.gov/ip/womeninthecourts/pdfs/DV-Lawyers-Manual-Book.pdf

Interviewing Immigrant Survivors of Gender-Based Violence

- B. J. Cling & Dorchen A. Leidholdt, "Interviewing and Assisting Domestic Violence Survivors," in Lawyer's Manual on Domestic Violence: Representing the Victim, 6th Ed. (Mary Rothwell Davis, Dorchen A. Leidholdt & Charlotte A. Watson eds. 2014), https://www.nycourts.gov/ip/womeninthecourts/pdfs/DV-Lawyers-Manual-Book.pdf

- Margaret V. Drew, "Client Interviewing" in The Impact of Domestic Violence on Your Legal Practice, 2d Ed. (American Bar Association Commission on Domestic Violence 2004), http://www.abanet.org/domviol/docs/Handout_1.pdf

- Immigration Equality, "Working with LGBT/H Asylum Seekers," https://www.immigrationequality.org/get-legal-help/our-legal-resources/immigration-equality-asylum-manual/13-working-with-lgbth-asylum-seekers/

- UN High Commissioner for Refugees (UNHCR), "RLD4 - Interviewing Applicants for Refugee Status," UNHCR RefWorld (1995), https://www.refworld.org/docid/3ccea3304.html

- USCIS, "Asylum Officer Basic Training Course: Interviewing Part V: Interviewing Survivors" (June 21, 2004), https://www.uscis.gov/sites/default/files/USCIS/Humanitarian/Refugees%20%26%20Asylum/Asylum/AOBTC%20Lesson%20Plans/Interview-Part5-Interviewing-Survivors31aug10.pdf

- USCIS, "Asylum Officer Basic Training Course: Female Asylum Applicants and Gender-Related Claims" (Mar. 12, 2009), at pp. 16-20, https://www.uscis.gov/sites/default/files/USCIS/Humanitarian/Refugees%20%26%20Asylum/Asylum/AOBTC%20Lesson%20Plans/Female-Asylum-Applicants-Gender-Related-Claims-31aug10.pdf