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Interviewing and Assisting Domestic Violence Survivors

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*Why did you stay?
Why didn't you just leave?
Why did he hit you?
There is no "why."*

Don't ask a victim to explain the abuser's conduct.

The Attorney-Client Relationship: Where it Begins

Your first interaction with your client is crucial. If she feels that you are untrustworthy, judgmental, or unable to relate to her experience, she will censor herself and you will not get the information you need to represent her effectively. At the first meeting, you will have an opportunity to gather vital information that may not be available again. Memories dim and bruises fade.

In the course of your relationship with your client, you will give her advice — some that she may not want to hear. If she trusts you, it is far more likely she will be able to hear bad news — such as the fact that some form of visitation between her children and her abuser is probably inevitable — without feeling that you are the enemy. With an attorney-client relationship predicated on trust, she will be far more likely to make sound decisions and act in a way that is in her and her children's interest. Such a relationship may not be easy to achieve, however, particularly since she is emerging from a relationship in which her trust has been repeatedly betrayed.

It is important that you do everything possible to make your first interview a success for both you and your client. This chapter will provide concrete guidance on setting up an interview, interviewing techniques, understanding and recognizing domestic violence, understanding post-traumatic stress disorder, and moving forward with legal and non-legal remedies. Careful preparation and attention to all of these matters will allow you to provide your client with the representation she needs to find freedom from abuse.

Communicating Safely

From the moment a victim takes steps to end abuse, her risk of injury increases (see Chapter 4, *Assessing Lethality & Risk: What Do We Know, How Can We Help?*). Many abusers are able to use technology to monitor the movement and communications of the victim. This includes communication with you, the attorney. Your communications with the client could inadvertently alert the abuser that

your client is trying to gain freedom from him. Resources in the notes provide guidance on how to help your client identify these risks and find safe ways to communicate with you.¹

If the client does not have a secure cellphone that is not on the abuser's account, be careful about telephone contact. Abusers frequently monitor victims' calls on their own phones. Ask if there is a friend or relative with whom you can leave messages without endangering her. If you call her home and someone else answers the phone, do not just hang up. That could create suspicion and trigger retaliation. Instead, ask for someone else and apologize for dialing a wrong number.

It can be helpful for the client to create a new email account with a new password that can be used for communications with counsel and others concerning the case. Her existing email may not be secure from the abuser.

Communicating Effectively

Stretching Further to Connect With Your Client

Survivors of domestic violence often have been mistreated over a long period of time. Although they may not complain, they are likely to be sensitive to negative social cues. On the other hand, many survivors are very responsive to help, especially if it is delivered in a warm, empathic way. Even if you are terribly busy, make an extra effort to answer your client's calls. Your client needs to understand that you value her communications and respect her, even if you can't speak to her every time she calls. Don't express irritation with the client for calling you, even if you think it is too often. Understand that she is going through a frightening process and needs reassurance. If you feel she is calling you excessively, try making appointments to talk with her and setting time limits on calls. Remember that emergencies do happen in domestic violence cases and there may be urgent reasons for her call. Talk with your client about alternative sources of assistance when she is unable to reach you, including calling 911 for help from the police

Some domestic violence victims' lives are so in flux that it is difficult for them to keep appointments. This is especially likely if the abuse was recent or is ongoing or if the victim was forced to flee her home. When you choose the date of the first meeting with your client, explain that punctuality is important and to call in advance if she needs to reschedule. It is helpful to let your client know what your expectations are, and it is important that those expectations be realistic and acknowledge her difficult circumstances, including lack of childcare.²

Awareness of the Strength of Your Role

It is very important to understand the disparity in power between you and your client so that it will not inadvertently be used against her. You will probably have knowledge, skills, access, and credibility that she will not. You may very likely have privileges based on race, class, education, gender, facility with the English language, or a combination of these factors that she will not possess.³

As her attorney, you will be able to use these privileges on behalf of your client to help her become a full participant in her case, to make her situation understandable to the court, and to enhance her credibility. Take care not to let this power differential work to her disadvantage.

Understanding Legal Issues

It is very important to go into the first interview understanding the primary legal issue, the burden of proof, and what your client will need to establish in order to prevail. Your interview should be structured around obtaining the information you will need to meet the evidentiary burden for the sought-after relief. Chapters elsewhere in this book provide guidance on litigating family offenses (Chapter 9), handling custody and visitation matters where domestic violence is a concern (Chapter

10), and remedies available for immigrant victims (Chapter 22), as well as many other subjects. Familiarity with the range of issues that arise will help you conduct a more productive interview.

Understanding Intimate Partner Violence

In preparation for interviewing your client, learning about the dynamics of domestic violence will help you make the most of your time together. Seemingly unrelated details of your client's experience may begin to emerge as part of a pattern of abuse.

Coercive Control & Intimate Terrorism

"Battered woman syndrome" is no longer the preferred model in understanding the dynamics of domestic violence.⁴ One objection to the model was its focus on the victim's mental state. The focus has shifted from the victim's mental state to the abuser's attitudes and behavior. Current scholars such as Evan Stark, Mary Ann Dutton, and Julie Blackman now view "power and control" as the driving force behind intimate partner violence, which Stark characterizes as "strategies of coercive control."⁵ The essence of coercive control, Stark argues, is not specific physical violence but a campaign of physical and psychological strategies to bend the victim to the abuser's will.⁶

Also called "intimate terrorism," coercive control involves the abuser's surveillance of his victim and violation of her liberty through control over such daily functions as eating, sleeping, and going to the bathroom. An abuser's coercive control is often subtle, gradual, and may be confused with "romance," slowly escalating until the victim has virtually no privacy or freedom. The abuser's power may be manifested by occasional acts of violence, which demonstrate what the consequences will be if the victim does not follow orders. Since coercive control is generally not recognized by the penal code, which focuses on discrete acts of physical violence that often leave marks, abusers frequently learn that they can engage in coercive control with impunity.

Psychologists and advocates have identified a set of behaviors and attitudes common to abusers. These experts are careful to point out that not all abusers share all characteristics. It can be helpful to review this list with your clients to elicit important information that might not surface otherwise. In the alternative, review with your client the different facets of the Power and Control Wheel, developed by the Domestic Abuse Intervention Program (reproduced in the Appendix). Being able to understand and identify the characteristics of abusers and their strategies of control can be very helpful to your client, diminishing her abuser's authority and lessening her feelings of self-blame.

Behavior often exhibited by abusers includes:

Jealousy and Possessiveness

Jealousy and possessiveness are two of the most common characteristics of abusers. These may be initially interpreted by the victim as signs of her partner's passion and devotion. Soon, however, it becomes apparent that they underlie his acts of domination and control. Jealousy on the part of an abuser can take many different forms, some overtly paranoid. The abuser of one victim hid tape recorders around the apartment in the hope of catching her with a lover. Another abuser forced his victim to lower her eyes whenever she walked outside; he was convinced that she was flirting with every man she encountered. Abusers often accuse their victim of sleeping indiscriminately with everyone from her boss to her best friend.

Controlling Behavior

This hallmark of abuse may be related to jealousy and can permeate every facet of existence. Convinced that his partner is unfaithful, the abuser feels compelled to monitor her every move to prevent her infidelity. He may not let her work outside the home, go to the store, or wear lipstick.

Immigrant victims are especially vulnerable, as discussed in Chapter 22, as they must often contend with abusers who attempt to use their immigration status as a weapon of control.

Quick Involvement and Manipulative Behavior

With an abusive partner, the dating period is often brief and intense. Almost immediately, the abuser expects the partner to meet all of his needs, build her world around him, and submerge her identity in his. Again, this hyper-focus is often initially interpreted by the victim as passion and devotion; eventually she realizes that it is her prison. During the courtship period, abusers often present a smooth facade. Many victims report that at the inception of the relationship, “He was the perfect gentleman.”

Abusers are often skilled manipulators who start by tricking their victims into believing that they are devoted, dependable partners. When their victims realize that they were hoodwinked and are finally able to extricate themselves from the relationship, abusers turn their manipulative powers on the agencies their victims turn to for help. Abusers are surprising and consistently adept at deceiving criminal justice, child welfare, and judicial authorities, too often succeeding in having their victims investigated for child abuse or neglect, arrested for fabricated crimes, and tarred as alienating parents. Eventually, abusers often turn their powers of manipulation on their own children, persuading them that mommy is to blame for the fact that the family is no longer together or is the reason why they can no longer live in their old neighborhood and attend their old school.

It is crucial for you, as your client’s lawyer, to be aware and on guard of the seeming sincerity of the abuser. Even skilled professionals are often taken in by these master manipulators.

Isolation

Abusers frequently attempt to isolate their victims. He despises her family and tries to persuade her that they are horrible to her. He tells her that she has to choose between them and him. To maintain the relationship, she moves away from her parents and cuts off contact with her sister. He wants her to quit her job and stay home with the kids. He hates her friends and tries to persuade her that they are just using her. He wants her in the home, where she is totally under his control. Any social contact becomes a threat.

When an abuser isolates his victim, he is cutting off her exit routes. This is a strategy that makes a great deal of sense from the abuser’s point of view. She has no one to help her understand what is happening to her, to bolster her self-esteem, and to offer assistance when she needs to leave. It is important to note that the abuser may not consciously identify his behavior as a “strategy” but as a “normal reaction to her behavior which questions his authority,” more exercising a right than developing a strategy.

Blame and Incessant Criticism

The abuser is never at fault and never accepts responsibility for any of his actions. She is always to blame. She is fat, stupid, too emotional, a terrible cook, a terrible mother, bad in bed, looks like a whore or a hag, and is responsible for his poor work performance, his poor relationships with other people, and above all, his violence to her. The barrage of constant criticism undermines her self-esteem, often rendering her even more dependent on him.

Cruelty to Animals or Children

One victim reported that after she left the relationship, her children told her that during court-ordered visits her abuser would hit and kick the dog. In another case, the abuser became jealous of his victim’s much-loved miniature poodle, and, one day in a rage, threw the dog against the wall, killing him.

Abusers are disproportionately likely to abuse their children as well as their partners. Studies show that in approximately half of domestic violence cases, children are also abused. Child abuse may take the form of depriving them of the love and care of the non-abusive parent. This is especially likely when the abuser is an immigrant with strong ties to another country. Service providers to victims report a plethora of cases in which abusers have abducted the children to another country after the victims fled the abuser.

Abusive and Violent Sex

Sexual abuse is a pervasive form of domestic violence. It is important to be alert to evidence of it, although it may not surface initially. Often the victim is reluctant to talk about sexual abuse — either because such abuse is so normalized in the relationship that it is not recognized as abusive or because she feels humiliation and shame about it and believes that she is responsible for it. It is likely that she will not be comfortable discussing sexual abuse until you have established a strong attorney-client relationship with her. You might initiate the discussion by saying something like, “Unwelcome sexual contact and sexual abuse are common in domestic violence. Many victims experience this kind of treatment, and it is not their fault.” For in-depth guidance on this aspect of domestic violence, see Chapter 7, *Intimate Partner Sexual Assault: An Overlooked Reality of Domestic Violence*.⁷

Verbal Abuse

Abusers usually subject their victims to an unending barrage of verbal abuse. The epithets “bitch” and “whore” are staples of domestic violence, along with threats and obscenities.

Threats go hand in hand with physical abuse. Some abusers control their partners with threats punctuated by an occasional act of violence. Ask your client specifically, “Did he ever threaten you?” One victim was frequently awakened in the middle of the night by her husband, showing her a length of cord or a sash. The implications were clear. During the day, he made frequent, approving references to O. J. Simpson, whose alleged murder of his wife was very much in the news. Frequently he would push or slap her. She lived in terror that he would kill her yet did not believe that she was a victim of domestic violence because the abuse she was subjected to was largely nonphysical.

Rigid Sex Roles

Abusers often demand that their partners conform to rigid sex roles. She is supposed to be passive, obedient, solicitous, pretty, a great cook who always has dinner on the table just when he is ready for it, and sexually available to him whenever he is in the mood. Many abusers want to control the family’s finances and discourage or undermine their victims’ educational and career aspirations.

Identifying Other Legal and Non-Legal Needs

In the course of the interview, you may discover that your client has other legal needs. It is not unusual for a domestic violence victim to have a range of different legal needs and eventually a variety of legal matters proceeding simultaneously. In many jurisdictions, domestic violence victims can access multiple levels of services through a Family Justice Center.⁸ This may be an efficient way to direct your client to the many resources that may be needed to address the challenges she is facing. More information on Family Justice Centers appears in the Appendix.

Other Legal Proceedings

The victim may have a civil order of protection and a custody or visitation matter in Family Court and a criminal case pending in criminal court or Supreme Court. She may also be involved in a matrimonial action and an immigration proceeding. You must be alert to all of these actual or potential matters, and ensure that they are coordinated in the best way possible to advance her interests.

For example, your client wants a divorce but her abuser is stalking and threatening her. Her immediate need is for police action and an order of protection. You will want to advise her about calling the police, and it may be helpful to intervene with the police on your client's behalf.

Or your client wants custody but thinks that there is a pending criminal prosecution against her abuser for assaulting her. It has been weeks since she has talked with the prosecutor. You may need to serve as a liaison between your client and the district attorney's office to make sure they understand that she is cooperating and wants a conviction. That conviction will be very helpful in the custody case and her cooperation may help her regularize her immigration status.

Your client's case may end up in an Integrated Domestic Violence Part. These special inter-jurisdictional courts are addressed in Chapter 14.

Non-Legal Needs

For safety

You will need to help your client assess safety needs and anticipate what to expect from the abuser. Chapter 4, *Assessing Risk and Lethality*, provides more guidance. You may learn that your client is living with her abuser and that the abuse is ongoing. She may tell you that he will ignore an order of protection and may seriously hurt or kill her. You will need to find out if she wants to go into a domestic violence shelter or if there are family members or friends she can move in with. Explore the possibility that an order of protection excluding the abuser from the home may protect her safety and help her review safety precautions such as having her locks changed and installing window guards. If she wants to remain in the home with her abuser, help her understand the risks while exploring strategies to protect her and the children's safety should the abuse resume (alerting a sympathetic neighbor, for example, and developing a plan for quick escape). Be sure that she has important documents in a place the abuser does not have access to.

For counseling

She may tell you that she feels so alone and isolated that she is thinking about going back to her abuser. Help her locate groups for domestic violence victims that can help create a supportive community. Then assist her by making an appropriate referral. The discussion below on Understanding the Effects of Trauma will assist you in supporting your client and recognizing how domestic violence may be having an impact on her day-to-day functioning and emotional life.

For therapy or psychiatric help

She may tell you that she feels depressed and sometimes considers suicide, has recurrent nightmares, and is terrified to leave her home even though she is certain her abuser does not know where she lives. She may have attacks of insomnia or intrusive flashbacks to incidents of abuse, all symptoms of Post-Traumatic Stress Disorder (discussed below). Urge her to get psychological evaluation and treatment and assist her in locating appropriate resources. You may be thinking, "I'm a lawyer, not a social worker." The truth is that this kind of representation requires grappling with more than specifically legal issues. However, no one expects you to be a social worker or a psychologist. There are many multi-service domestic violence agencies throughout New York State that provide shelter, counseling, and other services. They can assist you with information and referrals to meet your client's needs.⁹

For emotional reassurance

Regardless of the specific circumstances, breaking away from her abuser is a difficult emotional task for your client, and she will need emotional support from you. While that is not your main job, you need to be aware of her psychological needs and meet them where possible. For example, at times your client is likely to cry, or be very upset or withdrawn while talking about her circumstances. Be prepared to offer comfort. This may involve simply listening compassionately to her distress. Often, simply listening is reassuring. It's a good idea to keep tissues on hand.

If you and your client are comfortable with this, it is, at times, appropriate to hold a client's hand reassuringly, or put an arm around her shoulder, though you must always ask permission before touching your client. Remember that, even though you are seeing your client professionally, there is always a human element to an interview about a domestic violence survivor's life. Be prepared to be warm and caring in order to make your client comfortable, and later enable you to draw her out. Also, be prepared to hear that she is seeing her abuser again or contemplating re-connecting. It's important to withhold judgment or shock and to return to a discussion around safety planning. To the extent your client trusts you and feels comfortable with you is the extent to which she will be able and willing to tell you the important details you need to know.

The Interview

The First Meeting

The first meeting is a good opportunity to establish certain ground rules with your client and to assure her that you are aware of and will abide by your obligations to her.

Be sure to explain to your client each and every part of the legal process, avoiding legalese whenever possible. Do not pay short shrift to her questions or suggest that she is responsible for the abuse (e.g., "Why did you stay with him for ten years if he was so bad to you?"). You can help empower your client or you can inadvertently undermine her self-confidence and contribute to victim blaming. The client is here now, seeking your help.

Review the statement of the client's rights and responsibilities. Do not just hand the statement to her to read. Discuss it with her. Explain that she will make decisions about objectives and settlement, but that it is your job to make decisions about how best to achieve those goals.

Confidentiality

Explain that communications to you are protected by attorney-client privilege. Describe the privilege in simple lay terms: it means that everything she tells you is in confidence ("between you and me") and that you can disclose what she tells you only if you have first secured her permission. Be careful not to inadvertently disclose client confidences in conversations with the Attorney for the Child, child welfare workers, or forensic experts. If it would be advantageous to disclose certain information about your client to them and it is arguably confidential, get her permission first.

Inform your client that these principles of confidentiality will not apply when she talks with the forensic psychologist, the Attorney for the Child and his or her social worker, the judge's court attorney, the child welfare worker, or anyone other than you or someone from your office working for you. Anything she communicates to this list of professionals will very likely be communicated to the judge in a report. In dealing with them she will have to learn how to be an effective advocate for herself and walk a fine line: she must be able to convincingly and specifically describe the history of domestic violence without sounding embittered, angry, obsessive, or hostile to her abuser's relationship with their children.

Three Effective Techniques

During the interview, take detailed and accurate notes. Explain to your client that you are taking notes because what she is saying is very important and that you do not want to forget the details.

There are three types of interview techniques, and all three may be necessary to get the information you need. They are (1) the open-ended interview, (2) the structured interview, and (3) the questionnaire. In general you should start with an *open-ended interview*. Ask your client to tell her story in her own words. You may guide her somewhat by asking her to focus on certain questions (like the instant incident that precipitated the lawsuit). However, you want her to have the opportunity to speak expansively, if she can. The purpose of this technique is to make the client comfortable, and allow her to build trust in you by telling you her story uninterrupted. Because your client may wander quite a bit, it is fine to bring her back with a gentle question or two. However, give her enough time to unburden herself emotionally. Once you feel that your client is comfortable with you, you can move to the second technique, the *structured interview*.

The purpose of the *structured interview* is to focus your client on concrete details so that she can give you a coherent account of each incident. It is often very difficult for domestic violence victims to remember incidents in detail, or even in chronological order. If you need to know what happened in a particular incident, ask her to start talking about it. As she does, pick out a detail, like the time of day, and ask her what time it was, or what she was doing when it started (e.g. cooking dinner). She will probably give you much more detail, and then if she becomes vague, pick out another detail (like what she was wearing, or what room they were in) and ask about that. As you question her about concrete detail, it helps her remember concretely what was going on, and tell it in much more detail.

The third technique, *the questionnaire*, may not always be relevant. There are various questionnaires that document and rate abuse, usually for severity. Sometimes it can be helpful to give a questionnaire, and then go over it together. It can trigger memories, or focus conversation on how serious or dangerous the abuse really was.

Victims of domestic violence tend to minimize and normalize severe abuse, and this can be a neutral way of finding out about the details and extent of the abuse. However, sometimes it can be experienced as distancing. If it seems awkward or inappropriate to give your client a questionnaire, feel free to bypass this technique.

Obtaining the History of Domestic Violence and Gathering Evidence

Almost all cases require a detailed history of the domestic violence. You need to know (1) when each incident occurred; (2) in an order of protection case, whether the occurrences together or separately constitute family offenses; (3) what kinds of injuries she sustained; (4) what her feelings and reactions were; and (5) what kind of corroborating evidence exists (hospital records, eye-witness accounts, police reports, etc.).

Documenting the Abuse and Preserving Evidence

Ask your client to bring to the first interview all court papers, police reports, hospital records, and appointment slips relevant to the domestic violence, and marriage and birth certificates. New York State Domestic Incident Reports (DIRs), issued by the police when they arrive on the scene of a domestic dispute, contain contemporaneous accounts of the incidents by both your client and the responding police officer and are especially useful.

Remember to be alert to the fact that you may have key evidence in your office that will not be around for your next interview: bruises, red marks, scratches, and torn or bloodied clothing. Preserve that evidence by taking photographs or asking your client to allow you to keep her bloodied, ripped shirt. Ask her if he damaged her property. If so, she should document it either by saving the property

or photographing it. Such evidence will probably enable you to meet your burden of proof at trial. It may also enhance the possibility of a favorable settlement.

If she has the original receipts for property he damaged, she should provide them to you. They can be introduced into evidence in the dispositional phase of her family offense case when she is pursuing restitution.

Ask her about witnesses to the abuse. Even if the beatings happened in private, there may be neighbors who heard her screams or friends who observed her injuries afterward. She may have made “excited utterances” to friends or coworkers. Get the names, addresses, and phone numbers of these individuals, and contact them as soon as possible before their memories fade.

Assessing the Children’s Situation

Were the children present? What did they see or hear? How did they react? What changes in their behavior did you observe? The impact of the domestic violence on your client’s children will be relevant in almost every kind of representation — from family offense and custody to matrimonial and immigration. Find out what steps your client took to protect the children from the abuse, including by ending the relationship. It may be important to establish that your client knew the domestic violence was harmful to the children and tried to prevent them from being exposed to it.

Remember that until an Attorney for the Child has been appointed you can interview your client’s children. Older, verbal children can be a source of valuable and reliable information, such as which parent they prefer to live with or what they observed in their home on a particular occasion. Be sure that you have your client’s permission to interview the children and clear any questions you ask them with your client in advance. Also be sure that any questions you ask the children are “open-ended” and that you do not inadvertently lead.

Contested custody cases require that you know everything about your client’s relationship with the children: her history of care-taking; the children’s social, psychological, and intellectual development; the children’s relationship with the abuser; the children’s relationship with extended family members; even your client’s and her abuser’s life histories. Gathering this extensive information may require several interviews.

Meeting your client’s children and observing her interaction with them can strengthen your representation, especially if there is an actual or potential custody or visitation case. Seeing her with her children can give you information about her strengths as a parent that will make you a stronger advocate. Problems in the way your client relates to her children may become an issue in court. Swift and appropriate referrals to parenting groups or therapists are important to successful custody and visitation claims later on. See Chapter 15, *Litigating Custody and Visitation Cases*, for further discussion.

Ask your client how she disciplines the children. Although the law prohibits only excessive corporal punishment, any corporal punishment that comes to the Attorney for the Child’s or court’s attention will reflect poorly on your client. Tell her that. And, if she is disciplining the children inappropriately, refer her to a parenting skills course.

Knowing the Worst

Tell your client that her abuser will probably try to make her look bad in court. Explain that you need to know what he is likely to say about her in advance of the court date so that you can quickly respond to his allegations.

Ask her, “What is the worst thing he is going to say about you?” If she responds, “That I’m crazy or that I’m a drunk,” you will need to ask specific questions. Ask her if she has had psychiatric hospitalizations or seen a therapist and if so, when, where, why, and for what period of time. Ask her

if she has ever had a drug or alcohol problem. If so, find out when, what the substance was, the extent of her addiction, and whether she was in a program.

Ask her if her children have ever been removed or if there have been any child welfare investigations. Phrase the questions in such a way that your client understands that you are not judging her but are getting information necessary to help her.

Strengthening Your Client's Courtroom Presentation

Evaluate how your client will sound and appear to the judge, Attorney for the Child, and any forensic evaluators, and what kind of witness she will make at trial. How does she tell her story? Is it consistent and believable or is her account vague, confused, and contradictory? Is she easily rattled? Is her affect appropriate or is she blank and numb? Is she so emotional that she cannot stop crying? Does she dress appropriately?

By considering these issues you are not standing in judgment of your client; you are identifying the most effective strategy to help her get the legal remedies she needs. If she would not make a good witness, it might be best to try to settle the case. Or you might want to call an expert witness to explain her demeanor. Or you might be able to work with her to help her learn to present herself in a way that does justice to her case. One client laughed nervously every time she described the abuse she had suffered — behavior that led the Attorney for the Child and judge to doubt her account. When her lawyer gently pointed it out to her, she was able to control her nervous reaction and become an effective witness on the stand.

If court-appropriate clothing is a problem, consider referring her to a program like Dress for Success, which offers domestic violence victims professional-looking clothing for appearances in court.¹⁰

Prepare the client for meetings with other professionals.

Don't let a client go into any court-related situation (e.g., a meeting with a child welfare caseworker or the Attorney for the Child's social worker) without knowing what to expect and what will be expected of her. Warn her about possible pitfalls, such as openly expressing anger toward her abuser. Explain how important her appearance and demeanor will be in court.

Understanding the Effects of Trauma

Longstanding abuse, especially abuse that follows earlier abuse, often causes psychological problems and trauma. It's important to begin with an understanding that these "problems" were likely valuable coping mechanisms and adaptive strengths at the time in which they were employed. Sometimes challenges arise during interviews that can make representation seem especially difficult. So often these behaviors are symptomatic of post-traumatic stress disorder, and understanding that origin can help you as an advocate reach through that, and assist the client in moving forward.

Victims may also suffer from depression, and fears or paranoia. It is not surprising, for example, that a domestic violence victim might use alcohol and drugs to numb the pain and ward off feelings of despair. Zealous representation means understanding the worst, doing whatever is necessary to help her overcome the worst, and then, if her problems surface in the proceeding, helping evaluators understand their source, the steps she is taking to overcome them, and the strengths she displays in spite of them.

Post-Traumatic Stress Disorder (PTSD)

Domestic violence entails a series of traumas to the victim, which can cause Post-traumatic Stress Disorder (PTSD). PTSD is a diagnosis given to someone who has experienced a traumatic event and

is having a normal reaction to it.¹¹ With domestic violence, the traumatic event(s) consists of the physical or sexual violence and/or types of coercive control that the abuser has inflicted on the victim. The reactions fall into four categories – (1) *intrusive thoughts of the traumatic event(s)*, (2) *avoidance of these thoughts*, (3) *negative alterations in cognition and mood* and (4) *physiological hyperarousal*. Understanding that PTSD may be part of the picture is helpful in recognizing reactions your client may be having, and may explain why she has difficulty helping you put the information about her abuse in logical order.¹²

For a victim of domestic violence, PTSD reactions might include intense flashbacks and/or nightmares, etc. as a way of dealing with these intense emotional experiences. The victim may block feelings, and thus appear very flat emotionally, and unresponsive. In addition, she may have amnesia about some of the abuse, and difficulty remembering events in order or detail. She may also have disconnected physical experiences of fear (racing heart, difficulty breathing), problems concentrating and significant sleep disturbance.

Your client may seem very subdued and give only sketchy accounts of what has happened to her. This may be due to her tendency to *minimize*. Minimization is a psychological way of getting through very difficult circumstances by understating their significance and impact. Minimization can be very effective in helping a person survive a traumatic event, like a house fire, by helping her walk calmly to safety instead of panicking. Minimization can be a significant obstacle to understanding the gravity of a traumatic experience or how it affected the victim. If your client is minimizing, she will tend to describe the horrific treatment she's received in understated terms, which will have the effect of making the listener think that there was little if any abuse.

Another psychological defense that trauma victims may employ is *dissociation*, a technique that enables them to put feelings about experiencing abuse to the side and completely ignore them while doing something else. Like minimization, dissociation can aid survival, helping a victim to function in the face of tremendous adversity. For example, disassociation helps a mother prepare dinner for her children, or change a diaper, even after having been brutally abused. Dissociation enables a rape victim to endure a sexual assault by experiencing it as though it is happening to someone else.

While disassociation may help a victim survive a crisis, it has long-term negative psychological effects and can interfere with her ability to recall traumatic events that must be described in detail to access protection.

You may find that a client avoids staying on the subject during interviews. This may be the result of a thought disorder, a sign of a psychological problem. Or it may occur because your client wants to avoid painful subjects. It may also be the function of her lack of experience with interviews.

If your client does not respond to your questions, or continually gravitates to irrelevant topics, remind her to listen carefully and confine her answers to what you have asked. If she continues to be unresponsive, gently cut her off and repeat the question.

The client may have *memory gaps* or *amnesia*. This often is a function of repression, another common psychological reaction to abuse. It also may be the result of the repetitive nature of the abuse, because it is hard to remember specifics of events that occur daily or weekly.

Ask your client to bring calendars, diaries, and any records she keeps that will help her place events in time. Clients with children often can remember when events took place by thinking about how old their children were when they occurred. Help her hone in on the probable date by asking her what season the incident occurred in, then help her place it on or around a holiday or birthday during that season. Reassure her that it is very common not to remember the date of events that occurred months or years ago. If she does not keep a record of her activities, tell her that it is a good idea to begin to

keep one so that you will know the exact date and time on which events occur, such as drop-offs and pick-ups for visitation or harassing phone calls.

Sometimes a client may be *excessively self-assertive*. Relieved to be free of an oppressive abuser, she may be determined not to fall under anyone's control again and resists guidance. She may attempt to take charge of her situation, her legal case, and the courtroom, but have little idea of how to go about this effectively.

Clients struggling with issues of self-assertion may ignore your advice to keep quiet in court, reject your advice to comply with a court order, insist on strategies that are counterproductive, and become aggressive and even hostile when you give them bad news. Do not engage, and do not take such behavior personally.

Trauma-Coerced Bonding: When Your Client Wants to Return to the Abuser

Some victims of domestic violence also experience “trauma-coerced bonding.”¹³ Some victims of abuse remain very attached to an abuser, even though he has harmed her significantly. A victim who is traumatically bonded will have very mixed feelings about leaving her abuser, or prosecuting him for his wrongs against her. This phenomenon, originally called “Stockholm Syndrome,”¹⁴ occurs when there are two factors present. One, the abuser has to have significant power over the victim. This is the case in domestic violence. Second, the abuser has to be at times punishing, but also at times loving and caring towards the victim. The victim is weakened psychologically by the abuse, and comes to see the abuser more and more as the only person who can help or harm her. Working with this client may seem challenging. She may be very conflicted about leaving, and may backtrack at times. This client needs a great deal of emotional support, and gentle reminders of the negatives of her relationship with the abuser when she is feeling that she must return.

Like PTSD, trauma-coerced bonding is the natural outcome of the way in which your client has been mistreated — it is not reflective of her character or underlying mental fortitude. The other chapters in this book addressing topics such as spousal and child support, workplace rights, immigration remedies, intimate partner sexual assault, public benefits and housing, can help you, as the victim's attorney, identify specific solutions for challenges that may be underlying some of your client's extreme fear and contributing to her perception that the only place in the world for her is with the abuser. While pragmatic solutions will not always free your client from deeply private conflict, offering as many paths to safety and independence as you can may help shift her perspective, even if it takes a while. For some clients, leaving is a longer process and you may only see the beginning of it, not the final outcome. Your help is still an essential stepping-stone on her path.

Vicarious Trauma

Although your client is the one who has been traumatized by her experiences with the abuser, hearing about it in detail, and identifying with your client whom you are trying to help, leads to a certain amount of vicarious trauma. In other words, the experience of hearing about your client's trauma has the effect of causing you secondary trauma.

You should anticipate that it will be upsetting to hear about your client's experiences. It is important to be aware of this phenomenon, so that you do not unconsciously keep your client from talking in to avoid upsetting yourself. The best way to counteract this tendency is to maintain awareness that you are likely to get upset. It is important to allow yourself to experience whatever upset you feel, and to seek support for yourself when you do. If you shut this out, you are more likely to let your client avoid important details, and you are also more likely to engage in victim blaming.

It is a natural tendency to distance yourself from the traumatic circumstances of your client's situation. This is because most of us like to feel that these horrible events would never happen to

us. We like to feel that we would have acted differently, protected ourselves better. Because of this tendency, you may find yourself blaming your client for not defending herself or for not leaving sooner.

To avoid acting on these self-protective, but ultimately destructive impulses in ourselves, it is important to seek support from other lawyers and from professionals who are qualified to handle these issues.

Conclusion

The best attorney-client relationships are built on trust and teamwork. When this becomes the dynamic that informs your relationship with your client, there are mutual benefits. Not only will your task be easier and more rewarding, but your client's encounter with the legal system will be a positive experience — one that affirms her value and equips her with the tools she needs to build a safe and independent life. The interview serves as the foundation of all that will follow.

Notes

1. See National Network to End Domestic Violence, *Technology Safety*, techsafety.org/resources-survivors (provides Technology Safety Plan; guidelines on cell phone and online safety; safety-related apps; overview of spy-ware).
2. Lack of childcare can also make it difficult for a client to make appointments. Children often accompany on appointments and are watched by someone else in the office or a willing friend. It is not a good idea to bring children, except newborns or sleeping infants, into the interview unless it is confined to a discussion of financial information.
3. Your client may be from a different ethnic or religious group than yours or an immigrant. Your client may be a member of the LGBTQ community, or very young. She may have disabilities. It is important both to recognize your own presumptions and to understand the realities of your client's family and community life. Chapters elsewhere in this book address these special concerns.

Educate yourself about your client's culture or religion, especially about any religious beliefs and cultural customs that may become an issue in court.

You may have to become your client's cultural interpreter to the court or forensic expert. Avoid scheduling court dates and trial preparation sessions on religious holidays. If you need to schedule trial preparation when your observant client is fasting on a holy day, respect the need to take breaks for prayers and avoid eating and drinking in her presence until it is time to break the fast.

4. "Battered woman syndrome" is a theory developed by psychologist Lenore Walker that identified a constellation of characteristics ostensibly shared by domestic violence victims who have been subjected to battering over a period of time. A central feature of "battered woman syndrome" is "learned helplessness" — the inability of an abuse victim to seek help or escape even when these options are available. See Lenore E. Walker in *The Battered Woman* (1979).

This theory was initially used when trying to explain to a criminal jury why a severely abused woman was acting in self-defense when she killed or injured her abusive partner, "battered woman syndrome" proved detrimental to domestic violence victims in this and other legal contexts. It has been especially problematic for domestic violence victims fighting for custody of their children: if abuse victims suffer from learned helplessness and cannot protect their children? "Battered woman syndrome" also suggests that battered women suffer from psychological pathology which can become a rigid pigeonhole that undercuts a victim's credibility: if she was resourceful, assertive, and a fighter — clearly not suffering from "learned helplessness" — then her story of victimization must not be true.

5. Evan Stark, Anne Flitcraft, *et al.*, *Wife Abuse in the Medical Setting: An Introduction for Health Personnel*, Domestic Violence Monograph Series, No. 7 (Washington, D.C., Office of Domestic Violence, 1981); Julie Blackman, *Intimate Violence: A Study of Injustice* (1989).

6. See Evan Stark & Anne Flitcraft, *Women and Children at Risk — A Feminist Perspective on Child Abuse*, 10:1 *International Journal of Health Services* (1988); Linda McKibben et al., *Victimization of Mothers of Abused Children: A Controlled Study*, 84:3 *Pediatrics* (1989); Lee Bowker, et al., *On the Relationship Between Wife Beating and Child Abuse*, in *Feminist Perspectives on Wife Abuse*, ed. Kersti Yllo and Michele Bograd (1988).
7. Many victims have experiences of sexual abuse that predate the sexual abuse inflicted on them by their batterer. More recent experiences may trigger memories of early sexual abuse that the victim suffered as a child. Unless the history of sexual abuse is relevant, for example, because it will surface in a forensic evaluation in a child custody case or is part of your client's asylum claim, it probably isn't necessary to explore a past and painful prior history of sexual abuse. Such an exploration may not be germane to your case, and may upset your client unnecessarily. It's important to be clear when this information can be useful from a legal perspective, and when it is not.
8. See e.g. New York City Family Justice Centers, www.nyc.gov/html/ocdv/html/help/fjc.shtml; Family Justice Center of Erie County, www.fjcsafe.org/.
9. Many resources can be found through the NYS Office for the Prevention of Domestic Violence website, abuser.opdv.ny.gov/help/fss/resource.html.
10. At newyork.dressforsuccess.org/.
11. See Judith Lewis Herman, *Trauma and Recovery* (1992). Herman compares the trauma of victims of domestic violence to that of combat veterans and survivors of political torture.
12. Under the Diagnostic Statistical Manual (DSM) a person suffering from PTSD has experienced a traumatic event or events, and had various psychological reactions to them, lasting over a period of time. The DSM lists all the possible diagnoses of mental disorders, with detailed descriptions of the relevant symptomatology for each recognized disorder. It is compiled by a professional committee and must be approved by the Board of Trustees of the American Psychiatric Association. The DSM-V is the latest and current version of the DSM and subject to future revision.
13. Chitra Raghavan & Kendra Doychak, *Trauma-coerced Bonding and Victims of Sex Trafficking: Where do we go from here?* 17:2 *International Journal of Emergency Mental Health and Human Resilience* 223 (2015).
14. Donald Dutton, Ph.D. & Susan Painter, *Emotional attachments in abusive relationships: A test of traumatic bonding theory*, 8:2 *Violence and Victims* 105 (1993).