

Lawyer's Manual on Domestic Violence
Representing the Victim

5TH EDITION

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Supreme Court of the State of New York, Appellate Division, First Department

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Interviewing Battered Women

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Meeting Your Client

Your first interview 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 this 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, 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 — like the fact that some form of visitation between her children and her batterer 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 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 have. You very likely will have privileges based on race, class, education, gender, facility with the English language, or a combination of these factors that she will not have. 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. Don't let this power differential work to her disadvantage.

For all of these reasons and more, it is important that you do everything possible to make your first interview a success for both you and your client. There are some concrete steps you can take, and there is some less tangible but even more important preparation you can do.

Preparing for the First Interview

Your first interview with your client begins with your initial telephone contact. Try to determine if it is safe to call her at home or leave a message. If she is still living with her abuser, or if he or his friends or family members frequent her home, he may intercept or learn about your call and punish her for seeking help. Find out when and where you can safely call her. Ask her 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 a beating. Instead, ask for someone else and apologize for dialing a wrong number.

If your client is in shelter, ask her for the telephone number of her counselor and/or the shelter's reception desk. With her permission, introduce yourself to her counselor, who will likely be an important resource.

When you choose the date of the first meeting with your client, explain that it is important that she be punctual and to call you in advance if she needs to reschedule. Some domestic violence victims' lives are in so much 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. It is helpful to let your client know what your expectations are, and it is important that those expectations be realistic and take into consideration her difficult circumstances.

Isolated by her abuser from family and friends and impoverished by his economic control or her flight from her abuser, your client may have child-care problems. If that is the case, see if you can make arrangements with someone in your office to watch the children. If the children are school age, ask the client to bring books that they can read in the waiting room under the watchful eye of the receptionist. If the children are young, child-care presents more of a problem. See if the client can bring someone to wait outside with the children. Of course, 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.

I welcome the opportunity to meet my client's children and to observe her interaction with them, 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. You need to be alert to any such problems so that you can make swift and appropriate referrals to parenting groups or therapists.

Remember that, until a law guardian 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 or insinuate.

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, 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. Ask her if she keeps a calendar or journal; if she does, ask her to bring it to the interview. If she does not keep a journal, 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, like drop-offs and pick-ups for visitation or harassing phone calls.

Be sure to explain to your client each and every part of the legal process. Do not ignore her phone calls or blame her 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 be part of the system that keeps her down.

If your client is from a different ethnic or religious group or if she is an immigrant, guard against the stereotypes about her or her culture (e.g., that Asian or Muslim women are submissive). Avoid imposing on her or her culture your own ethnocentric judgments (e.g., she is a bad parent because her infant sleeps in her bed, a common practice in many cultures, rather than alone in a crib). Learn 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, forensic expert, or law guardian. Be alert to religious holidays and avoid scheduling court dates and trial preparation sessions on those days. Be aware that violence against women often takes different forms in different cultures.

There are a number of organizations that serve victims of domestic violence from particular ethnic groups, such as the Korean-American Family Service

Center, Sakhi for South Asian Women, and the Arab-American Family Support Center. Advocates from these organizations not only can provide emotional support for your client but also can provide you with crucial information about your client's culture.

Understanding the Dynamics of Domestic Violence

It is also essential, before you interview your client, to have an understanding of the profile of a batterer and the dynamics of domestic violence. This is important for a number of reasons.

First, your client needs to understand what she is dealing with at home and that she is not alone. Many women blame themselves for being in abusive relationships. Recognizing that the domestic violence is the product of his need to dominate and control and not her psychology or behavior can lift a burden from her shoulders. Realizing that there are other women in the same boat can help end her isolation.

Second, you may need to educate the court, the law guardian, and even the forensic psychologist about the dynamics of domestic violence and their relevance to your case. These days many psychologists, lawyers, and judges have received some domestic violence training. It does not necessarily prepare them, however, to apply the lecture's abstract principles to the real human beings before them or rid them of deeply held biases.

Third, you will need to help her assess her safety needs and what to expect from her abuser. Will he stalk her? Is he so dangerous that she needs to go into shelter? Is he so dangerous that she should not initiate a family court action that will place her in close proximity to him? Will he use the legal system instead of his fists to continue the abuse once she has left? Information about how batterers think and behave will help you prepare her for what may be in store.

You probably have heard of the "battered woman syndrome." This is 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 battered women to seek help or escape even when these options are available.¹

This syndrome, while useful when trying to explain to a criminal jury why a horribly abused woman was acting in self-defense when she shot her sleeping husband, has proven detrimental to women in other legal contexts. "Battered

woman syndrome” has been especially harmful to domestic violence victims fighting for custody of their children: if battered women suffer from learned helplessness and cannot protect themselves, then how can they protect their children? “Battered woman syndrome” also suggests that battered women are not victims of oppression but rather suffering from psychological pathology. “Battered woman syndrome” has undermined domestic violence victims in a variety of legal contexts by becoming a rigid pigeonhole: if the woman was resourceful, assertive, and a fighter — clearly not suffering from “learned helplessness” — then her story of victimization must not be true.

“Battered woman syndrome” includes the notion that battering is characterized by a “cycle of violence”: a stage of tension-building followed by a stage of acute battering followed by the honeymoon stage when the abuser begs for forgiveness.² The problem with this theory is that, while the cycle of violence describes some abusive relationships, it does not describe all of them. Some batterers never apologize. Some battering remains low-level, chronic, and marked by constant criticism and verbal abuse. Unfortunately, the “cycle of violence” became as rigid a pigeonhole as “learned helplessness,” calling into question women’s stories of abuse when they did not fit this pattern.

The psychological understanding of domestic violence has changed. Thanks to the work of scholars like Evan Stark and Julie Blackman, the focus has shifted from the victim’s mental state to the abuser’s attitudes and behavior, which Stark characterizes as “strategies of coercive control.”³ What is definitive, Stark argues, is not whether the victim ended up in the hospital, but whether her abuser was carrying out a campaign of physical and psychological strategies to bend her to his will.

Psychologists and advocates have identified a set of behaviors and attitudes common to abusers. They are careful to point out that not all abusers share all characteristics. I find it very helpful to review this list with my clients. It often elicits important information that would not surface otherwise. Being able to understand and identify the characteristics of batterers and their strategies of control can be very helpful to your client, diminishing her abuser’s authority and lessening her feelings of self-blame.

Jealousy and Possessiveness

Jealousy and possessiveness are two of the most common characteristics of abusers. Often they are 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 in the context of an abusive relationship

can take many different forms, some overtly paranoid. The abuser of one of my clients hid tape recorders around the apartment in the hope of catching her with a lover. Another client's abuser forced her 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 with everyone from her boss to her best friend.

Controlling Behavior

This is often related to the abuser's jealousy. Since he is convinced that she wants to sleep with anyone and everyone, he has to monitor her every move to prevent her infidelity. He will not let her work outside the home, go to the store, or wear lipstick.

Battered immigrant women must often contend with abusers who attempt to use their immigration status as a weapon of control. Frequently, their abusers will seize their passports and other travel documents. If the women are undocumented, their abusers will threaten to report them to immigration officials and have them deported. If the women have conditional resident status, their abusers will threaten not to accompany them to their INS interview for removal of the condition. Battered women from Islamic countries may return home for a visit with their families only to discover that they are unable to leave the country because their abuser has issued a decree preventing them from doing so. One of my clients was held prisoner by her abuser in Algeria for years until she promised to obey him in all matters; only then did he permit her to return to the United States.

Quick Involvement and Manipulative Behavior

In abusive relationships, the dating period is often brief and intense. Almost immediately, the abuser expects his partner to meet all of his needs, build her world around him, and submerge her identity in his. Again, this behavior 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. As one of my clients said, "He was the perfect gentleman." The perfect gentleman beat her for years and would have killed her had a neighbor not intervened.

Batterers are often skilled manipulators, adept at deceiving criminal justice and child welfare authorities. They 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.

Isolation

Abusers frequently attempt to isolate their victims. He hates 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 a batterer isolates his victim, he is cutting off her exit routes. This is a strategy that makes a great deal of sense from the batterer'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.

Blame and Incessant Criticism

The batterer 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 client told me that, after she left the relationship, her children reported that during court-ordered visits her abuser would hit and kick the dog exactly the way he used to hit and kick her. In another case, the batterer became jealous of my client's much loved miniature poodle, and, one day in a rage, threw him against the wall, killing him.

Batterers 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 by batterers may take the form of depriving them of the love and care of their mothers. I have seen many cases in which batterers have abducted the children to another country after the mothers fled the abusive relationship.⁴

Abusive and Violent Sex

One of the things I found the most surprising when I began to represent battered women was the pervasiveness of sexual abuse in domestic violence.

In the course of preparing a petition for an order of protection, I would learn that she was not only threatened by her abuser — she was raped repeatedly by him.

Often I did not learn this information on the first interview because my client was ashamed of the sexual abuse and found it so hard to talk about. Although there has been no marital rape exemption in New York State since the Court of Appeals rejected it in 1984,⁵ and rape is a serious crime — a B Felony — rape in the context of domestic violence is rarely ever prosecuted, both because victims are understandably reluctant to come forward and because the system still sees marital rape as something less than a real crime.⁶

Sexual abuse in the context of domestic violence often means the abuser pressuring or forcing his victim to participate in unwanted, degrading sex: picking up prostitutes, going to a strip show or sex club, taking pornographic pictures of her, making her perform sexually for him and his friends, making her prostitute herself and making her act out what he likes in pornography. In one custody case, the batterer introduced into evidence at trial pornographic pictures of his bruised victim. He seemed to think that it was irrelevant that he had taken the pictures and that they documented his abuse. Fortunately, the judge did not and rejected his bid for custody.⁷

Sexual misconduct, rape, and other sexual offenses are not “family offenses” as defined by the Family Court Act and the Penal Code. The acts and injuries involved, however, may make out the elements of a family offense such as assault (if there is “physical injury”) or harassment.

Verbal Abuse

Batterers 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

Threats go hand in hand with physical abuse. Some batterers control their partners with threats punctuated by an occasional act of violence. Ask your client specifically, “Did he ever threaten you?” Some victims do not see threats as acts of abuse. One of my clients was frequently awakened in the middle of the night by her husband, who would show her a length of cord or a sash. During the day, he made frequent, approving references to O. J. Simpson. Frequently he would push or slap her. She lived in terror that he would kill her but did not believe that she was a victim of domestic violence.

Rigid Sex Roles

Batterers 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.

The First Interview

At the beginning, review the statement of the client's rights and responsibilities. This is a good opportunity to set certain ground rules with your client, and to assure her that you are aware of and will abide by your obligations to her. 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 to your client that her 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 law guardian, 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 law guardian and his or her social worker, the judge's assistant, 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.

Legal Issues and Legal Needs

It is very important to go into the first interview understanding the primary legal issue, the burden of proof, and what your client will probably have to establish to prevail. For example, if it is a custody case, you will need to establish by a preponderance of the evidence that it is in the best interest of your client's children for her to be the custodial parent. Learn the best interest factors⁸ and know that the court must consider proof of domestic violence. Or, if your client wants a three-year, exclusionary order of protection, she will have to establish by a preponderance of the evidence that her abuser has committed a family offense against her and that there are "aggravating circumstances." Know the elements of the family offense you will have to prove. Or, if your client has conditional resident status, in order to obtain permanent residence status she will need a battered spouse waiver establishing that her marriage was in good faith and that she was subjected to extreme cruelty. Your interview should be structured around obtaining the information you will need to meet the evidentiary burden.

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 matters proceeding simultaneously. Typically, your client will have an order of protection and a custody or visitation matter in family court and a criminal case pending in criminal or supreme court. She may also be involved in a matrimonial action and an INS proceeding. You must be alert to all of these matters, actual or potential, and attempt to determine how you can comprehensively address her legal needs.

For example, your client says she wants a divorce but her batterer 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. 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 beating her up. It has been months 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.

Nonlegal Needs

Also be alert to the fact that your client may have nonlegal needs that must be addressed.

For Safety

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 battered woman's shelter or if there are family members or friends she can live with. If she wants to remain in the home with her abuser, you will need to talk with her about strategies should the abuse resume (alerting a sympathetic neighbor, for example) and a plan for quick escape. Be sure that she has all of her important documents in a place the abuser does not have access to. She will need to explore safety precautions such as having her locks changed and installing window guards.

For Counseling

She may tell you that she feels so alone and isolated that she is thinking about going back to her abuser. Tell her that there are support groups for domestic violence victims that can help create a supportive community. Then assist her by making an appropriate referral.

For Therapy or Psychiatric Help

She may tell you that she feels depressed and sometimes considers suicide; she has constant nightmares; she is terrified to leave her home even though she is certain her abuser does not know where she lives. She may describe recurrent nightmares, attacks of insomnia, or intrusive flashbacks to incidents of abuse, all symptoms of post traumatic stress disorder. You will want to urge her to get psychological evaluation and treatment.

You may be thinking, I'm a lawyer, not a social worker. The truth is that this kind of representation does not just entail grappling with 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.

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.). Taking her through the elements of the power and control wheel can be an effective way to elicit the full range of the abuse she has received.

As mentioned above, 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 give you the edge to obtain an extremely favorable settlement.

If she has the original receipts for property he damaged, she should send 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.

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. (You can interview the children if a law guardian has not yet been appointed, but if you do so proceed with caution.) 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.

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 batterer; 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.

An interview for an uncontested divorce will be much more focused and less time-consuming. After you learn the history of domestic violence within the

last five years to establish the ground of cruelty, you will need very straightforward financial and biographical information.

Evaluate how your client will sound and appear to the judge, law guardian, 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 of my clients laughed nervously every time she described the abuse she had suffered — behavior that led the law guardian and judge to doubt her account. When I 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 New York City's Dress for Success, which offers domestic violence victims professional-looking clothing for appearances in court.

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.

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 was the substance, 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.

Longstanding abuse, especially abuse that follows earlier abuse, often causes psychological problems and trauma. Battered women may suffer from depression, post-traumatic stress disorder (hyper-arousal, intrusive thoughts, disassociation), and fears or paranoia.⁹ 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.

Ask your client how she disciplines the children. Although the law prohibits only excessive corporal punishment, any corporal punishment that comes to the law guardian'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.

Problems in the Interview

There are certain problems that you may encounter during your representation of your client. Usually they surface during the first interview.

She Minimizes or Erases the Abuse

This is a very common problem in the representation of battered women and far more likely to occur than exaggeration or fabrication. In part, this is a function of denial, a common psychological reaction to abuse. If you realize that she is minimizing, tell her that it is very common for victims of domestic violence to understate the abuse, that it is a way of trying to survive something very painful. Help her understand the severity of the violence she experienced (e.g., "He forced you to have sex with him even though you said no and tried to push him away? That is the crime of rape. It is a felony to force sex on anyone, even if that person is married to you").

She Has Difficulty Remembering When the Incidents Occurred

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 — 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.

She Goes off on Tangents

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, 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.

She Asserts Herself Inappropriately

Clients who have been controlled by someone for years are often struggling with issues of assertiveness and control. Now that she is free of her abuser, she may have vowed never to let anyone bully her again. She may attempt to take charge of her situation, her legal case, and the courtroom. 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.

Determine if there is an unmet need behind behavior that seems inappropriate. I once assisted a domestic violence victim who, in the middle of her custody case, wrote a letter to the judge stating that she wanted one of her daughters to live with her husband. The letter seemed inexplicable, especially since her husband had battered both her and this daughter's older sister. During my meeting with the client, I learned that she had a severely disabled young son and was overwhelmed by the demands of caring for him. By assisting her with getting

the help she needed — in this case, a home attendant to help care for her son — the client was better able to cope with her daughter's demands.

Some Don'ts

Don't ask victim-blaming questions that shift the responsibility. They often start with "why:"

- Why did you stay?
- Why didn't you just leave?
- Why did he hit you?

Don't dismiss her fears or concerns. Address them seriously.

Don't let her go into any court-related situation (e.g., a meeting with a child welfare caseworker or the law guardian'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.

Don't dismiss her thoughts and suggestions about strategy. Consider them seriously. If you disagree, just explain that you have learned that does not work and why.

Don't ignore her phone calls or get irritated with her for calling you, even if you think she is calling you 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 often happen in domestic violence cases and there may be urgent reasons for her call.

A Successful Attorney-Client Relationship

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.

Notes

1. The “battered woman syndrome” was first identified by Lenore E. Walker in *The Battered Woman* (1979).
2. *Id.* at 65-70.
3. 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).
4. See Evan Stark and Anne Flitcraft, *Women and Children at Risk — A Feminist Perspective on Child Abuse*, *International Journal of Health Services* 10, No. 1 (1988); Linda McKibben *et al.*, *Victimization of Mothers of Abused Children: A Controlled Study*, *Pediatrics* 84, No. 3 (1989); Lee H. 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).
5. *People v Liberta*, 64 NY2d 152 (1984).
6. Susan Estrich, *Real Rape*, at 72-79 (1987).
7. See Ann Jones, *Next Time, She’ll Be Dead: Battering and How to Stop It*, at 106-128 (1994).
8. *Eschbach v Eschbach*, 56 NY2d 167 (1982).
9. 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.