Trauma Informed Interviewing Techniques

Lawyers’ Committee for Civil Rights
Fenwick & West
Trauma Informed Interviewing Techniques
Best Practices for Working with Trauma Survivors

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Direct Services

We offer a range of legal and social services to ensure that our clients can escape violence and rebuild their lives in safety.

**IMMIGRATION LAW**
We represent immigrant women and girls who we believe have a legitimate claim to legal status under U.S. immigration law as survivors of gender-based violence.

**FAMILY LAW**
We ensure our clients’ legal needs are met in family courts, safeguarding children against abuse and helping women divorce their abusers.

**CIVIL LAW**
We engage in appellate advocacy and impact litigation, and support clients as they recover damages from harms they have suffered, such as trafficking.

**FORCED MARRIAGE PROTECTION**
We provide confidential support and assistance to individuals in the U.S. who are facing forced marriages in this country or abroad.

**SOCIAL SERVICES**
We connect our clients to shelter, employment-related training, food pantries, and other services so they can gain greater control over their lives.

**MEDICAL SERVICES**
We help our clients obtain medical and mental health services, a vital step in the road to recovery from physical and psychological trauma.

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“...If one set out by design to devise a system for provoking intrusive post-traumatic symptoms, one could not do better than a court of law.”

— Judith Lewis Herman, Trauma and Recovery: The Aftermath of Violence - From Domestic Abuse to Political Terror
TRAUMA 101
Neurobiology of Trauma

• When we lose functioning in our prefrontal cortex (executive functioning), it makes it difficult to perform basic reasoning, access working memory, focus, follow directions, regulate our emotions, and control our inhibitions.

• During trauma, the pre-frontal cortex shuts down and the amygdala (reptile brain) takes over.

• When this happens, our brain believes it is under attack and goes into fight, flight, freeze, or fawn.
Neurobiology of Trauma

- Interaction goes from a normal, expected scenario to an unexpected perceived attack
- Fear-based responses are habitual behaviors appropriate to the scenario that's been left behind, not necessarily the situation they find themselves in now
- Old responses to trauma
- May dissociate – blank or space out, disconnect from body, float, autopilot
Why trauma matters

Trauma Impacts Representation:

- How your client perceives and interacts with others
- Your client’s style and ability to communicate
- Your client’s decision-making
- The ability to build trust between client and attorney
- Your client’s physical and emotional ability to engage in case preparation
Distrust

Experiencing abuse, especially by someone who your client should be able to trust, can make it hard to trust people in the future.

Your client may also be aware of real dangers that the information shared will be used against her.

Traumatic Trigger

A reminder (people, smells, expressions, words or phrases, feelings) of a traumatic incident that causes a client to re-experience some aspect of the incident as if it were happening in the present moment.

Can manifest as feeling uneasy or physically ill, fear, becoming “checked out,” anger, or defensiveness.

Adapted from Rachel White-Domain, JD. National Center on Domestic Violence, Trauma & Mental Health
Common Trauma Responses

Memory Impact
During a traumatic incident, survival response may cause one to focus on some details and not others.

Trauma responses might make it difficult to remember details later, or to access the emotions your client felt at the time.

Traumatic Brain Injury can also impact memory.

Dissociation
A protective coping mechanism.

Change in consciousness.

Your client’s experience of what is happening and their understanding of what is happening become disconnected.

Adapted from Rachel White-Domain, JD. National Center on Domestic Violence, Trauma & Mental Health
To be informed of a client's trauma means to take into consideration their reality and view things that may otherwise appear confusing or frustrating in the context of a person who is simply attempting to survive.

Empathy and compassion for a client's individual and unique experience.

Trauma informed care practices humility, empowerment, healing, and is culturally responsive.
Why adopt this approach?

It benefits you client and your work:

• Promotes better legal case outcomes and better attorney/client relationships
• Fosters trustworthiness
• Improves communication with the client
• Helps client make more informed decisions and convey details of her story
• Avoids client re-traumatization
• It fits within a broad range of services that can empower survivors
INTERVIEW STRATEGIES
How to tell a good story?

- Understand the story, its context and its characters
- Understand your audience and what they need to know
- Know the purpose and objective of telling the story
- When possible, explain these themes, case strategies, and legal concepts to your client in language they understand
Before You Start Interviewing

ASSESS WHAT YOU NEED

• What is the purpose of my interviews and how will I explain it to my client?
• What background information/learning do I need to understand my client’s story?
• How ready is my client to tell her story, and how can we establish trust and rapport?
• What accommodations or pivots am I ready to make?
Before You Start Interviewing

KNOW YOUR PURPOSE OF INTERVIEW

• Elicit information
• Observe your client in preparation of interview/hearing
• Interpret client’s storytelling into written testimony that establishes eligibility and favors discretion.
Before You Start Interviewing

SET UP THE INTERVIEW

• Offer options in the physical space
• Use open body language
• Offer breaks
• Make space for self-soothing
• Be thoughtful about note taking
• Silence phones/cell phones
Poll Questions

In your asylum cases, have you ever:

- Felt frustrated that a client isn’t answering the question you asked or giving you the information you need?
- Felt frustrated or stuck that a client isn’t answering questions or telling their story in a chronological, sensical manner?
What helps you get the story?

Trauma informed interviewing is a process:

- Build rapport and trust
- Be as transparent as possible throughout
- Make space for storytelling
Build Rapport and Trust

- Do not attempt to do substantive interviewing during first meeting.
- Embrace a culturally responsive approach.
- Ensure linguistic competence.
- Discuss with client how they would like to proceed with interviewing declaration drafting.
- Have boundaries, but be human.
Stay transparent

• Transparency about your role
  • “The reason I’m asking is so that we can help immigration understand your experience. It is not because I don’t believe you or because I think you did anything wrong.”

• Transparency about limitations
  • “I’m really glad you called. I have 15 minutes to talk right now.”
  • “This case could take a long time... When you call, I may not always call you back right away...”
  • “Here’s why it’s important we talk about X today.”
Make space for storytelling

- Explain what you want to know and why.
- Let your client tell their story.
- Ask questions to fill in details.
- Your client may have more to share later if they
  - Remembers it later
  - Feels more comfortable with you
  - Feels more confident about themselves
- Make space for telling more later.
  - “If later on, you think of something more that you want to tell me about this, you can let me know at any time.”
Leave time and space

• Plan for your client’s story to come out over several sessions
• Build in space for cancellations and other challenges
• Look at your calendar, work backward from deadlines
How to Ask the Questions

Ask concrete, simple, straight-forward questions to understand the story

TYPES OF QUESTIONS

• Compound
• Yes/No; agree/disagree
• Leading
Poll Question

In your asylum cases, have you ever:

- Felt like you didn’t want to ask a question in an interview because it felt really uncomfortable?
How to Ask the Questions

Trauma informed interviewing calls upon us to be intentional in our questions. It doesn’t mean we avoid asking for necessary information because it will be hard.

ASKING HARD QUESTIONS

• Try not to show your own discomfort or feelings
• Be compassionate but matter-of-fact about incidents of abuse/violence.
• To solicit detail: Ask “What happened after that”
• Try not to interrupt during a narrative
• Tolerate pauses, even long ones
Questions You “Need” to Ask

• Why did you marry him? When? Where?
• When was the first time he hit you? What day/year?
• Why did he attack you?
• How often did he rape you? Why did he rape you?
• Why didn’t you leave? Why did you stay?
• When was it that you tried to leave?
• Did you do anything that set him off?
• Why didn’t you call the police?
These kinds of questions get at the information you need for a credible, strong asylum claim.

But they are not trauma informed. Questions like these may:

- Convey judgment that deteriorates trust.
- Insist on detail and memory recall likely impacted by the trauma.
- May trigger a traumatic response and cause client to shut down.
- May cause your client to answer incorrectly or make up information to satisfy you.
How can you ask instead?

Start with transparency
• The court requires us to show what your abuser’s motivation was.
• I am asking these questions to help understand from your experience what was happening in that moment to help you explain it in a way the system will understand.

Reaffirm trust, nonjudgment, and space to remember more later.
• When I ask these questions, it’s not because I don’t believe you or believe there is any justification for his actions.
• If you don’t remember or don’t know, it’s OK to tell me that. If you remember more later, you can always tell me.
Take a storytelling approach, build around the edges inward:

• You told me about a time that your abuser first hurt you physically. I’m going to ask you a few questions about that.

• Do you remember if it was hot or cold outside that day? (Was it before or after Christmas?)

• Tell me a little bit about what was happening that day.

• It seems like this is hard to remember and talk about. Thank you for sharing with me. Do you remember if he said anything while this was happening?
Recognize overwhelm

- Silence
- Change of subject
- Signs of dissociation
- Talking about the past in present terms
- Not responsive to questions
- Agitated
- Autopilot/floating
Recognize overwhelm

- Offer to take a break
- 5-4-3-2-1 grounding exercise:
  - Take a few deep breaths
  - 5: Acknowledge FIVE things you see around you.
  - 4: Acknowledge FOUR things you can touch around you.
  - 3: Acknowledge THREE things you hear.
  - 2: Acknowledge TWO things you can smell.
  - 1: Acknowledge ONE thing you can taste.
Watch for translation issues

- Watch for visual sign the client does not understand the interpreter (looking down at their hands, looking to you, confused facial expression)
- Remember different countries use different words
- Ask the same question in different ways
Wrapping up an interview

- Talk to your client about the next steps
- Let them know when you will meet again
- Remind client they can call you if they remember something or want to add to/change information
- Recognize and validate to the client that you have asked them to do something really difficult
- Help the client plan for what they can do to relax and decompress after the interview
Interviewing is a process and there is work between sessions, including:

- Identifying conflicting information and preparing non-judgmental ways to reconcile with your client.
- Identifying vague or confusing responses. How can you ask follow up questions differently?
- Note cues or signals to undisclosed information. Prepare to gently and empathetically raise it in a future session, reaffirming client’s autonomy to share (or not).
MORE BEST PRACTICES
Trauma Informed Best Practices

- Do explain your role
- Don’t express entitlement to information
- Do explain the information that would be helpful
- Do listen first and ask questions later
- Do be comfortable with silence as things are remembered
- Do leave the door open for other things to be shared later (if possible)
• Keep interview sessions shorter than usual, and take breaks to stretch or step away from the screen.
• Use videoconferencing platform if possible, but offer for your client to turn the camera off from time to time.
• Use a headset, even if you’re alone, as a visual cue of privacy.
• Talk with your client in advance about being in a room alone, where most comfortable.
• Use some small talk to warm up and wind down the session.
• Develop a plan together with your client about what you’ll do if there’s technical difficulties.
Questions?

After the webinar, contact

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How You Can Help

Our work is amplified by the power of many. As Pro Bono Network members, there are many ways to contribute your time, resources, and expertise.

**CO-COUNSEL**
Directly represent, with Tahirih mentorship, an immigrant survivor in their asylum, VAWA, T, U visa, or Special Immigrant Juvenile Status immigration matters.

**IMPACT LITIGATION**
Work with Tahirih on federal litigation, amicus briefs, and other impact litigation opportunities.

**ADVOCATE**
Respond to our advocacy alerts to submit comments or engage in other advocacy on behalf of immigrant survivors.

**RESEARCH**
Help Tahirih with research and analyze legal questions or research country conditions evidence to help immigrant survivors seeking asylum and other forms of relief.

**DONATE**
Tahirih’s Client Fund is a pool of money that we may use to provide immediate and critical support to survivors of gender-based violence who are currently in crisis.

**SPREAD THE WORD**
Encourage a colleague to join Tahirih’s Pro Bono Network.
Contact Us

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The Tahirih Justice Center and its pro bono partners are committed to engaging in trauma-informed lawyering when representing Tahirih clients. In light of public health concerns surrounding the COVID-19 virus, many law firms and corporations are instituting mandatory telework. Even where telework is not required, pro bono attorneys, clients, and Tahirih should prioritize the well-being of themselves, their families, and their communities, and therefore may choose to work remotely.

Still, our roles as advocates may require that case preparation and client interviewing need to continue during periods of telework. This guide offers suggestions on how to adapt best practices in trauma-informed lawyering to a virtual setting.

General Tips for Transparency and Trust with Clients

Trauma-informed lawyering builds upon transparency and trust with survivors. The fear, trauma, and uncertainty your clients may be experiencing generally about the violence they experienced, the safety of themselves and family members, and the outcome of their legal matter on basic needs may be exacerbated by the societal uncertainty of the COVID-19 pandemic and disruption in business, educational, and social activities.

**BE TRANSPARENT WITH YOUR CLIENT ABOUT WHAT YOU DO AND DON’T KNOW**

- Share information about court closures (or lack of closure), your firm’s workplace policies and visitor screening practices, and whether and for how long you’re working remotely.
- If you are working remotely, share with your client the things you are able to do as if you were in your regular office, and those things that will need to be a bit different.
- If you are unable to meet in-person for a period of time, be honest and transparent about that timeframe and what options exist to accommodate continued work together.
- Don’t share misinformation, rumors, or unvetted health information from unreliable sources.

**VALIDATE THEIR CONCERNS**

- Your clients’ concerns are real and palpable to them. Validate and don’t dismiss them.
➢ Be honest about what you can and cannot control and validate that it’s a frustrating and stressful time.

ASSURE THEM YOU REMAIN COMMITTED TO THEIR CASE
➢ State – and regularly re-state – your commitment to your client and their case. You will continue to be their attorney, to work together on their case, meet filing deadlines, and appear at required hearings and interviews.
➢ Have a phone number where you can be reached and be transparent about how often you will check e-mail/voicemail, and how quickly you will return calls. Then, to the extent reasonably possible, stick to those commitments. Clients will be less anxious, and your attorney-client relationship will continue to be healthy if you and your client are on the same page about what communication and contact looks like, even in unusual circumstances.

HAVE A PLAN FOR NECESSARY MEETINGS
➢ Because you are committed to your client’s case and are balancing public health factors against your duties as an advocate, discuss with your client any limitations on in-person meetings.
➢ Use virtual meetings when reasonable. Ask and discuss with your client, without judgment, whether they have access to sufficient phone use and WiFi or data for videoconferencing calls on platforms like Zoom or BlueJeans. Do not assume they have the financial or logistical support to engage in frequent, lengthy virtual calls. If your firm is willing, consider sending calling cards to the client to support telephonic connection for ongoing work.
➢ Make a plan so that you client can reschedule, cancel, or change an in-person meeting to a virtual meeting if either you or your client is feeling unwell, experiencing COVID-19 symptoms, or have other acute concerns about exposure.
   o Note: Most Tahirih clients will not have recently traveled from high-risk areas, such as China, Iran, Italy, Japan, or South Korea.
➢ When an in-person meeting is needed, consider paying for a taxi, Uber, or Lyft for your client so they may avoid public transportation.

WHETHER MEETING IN PERSON, VIA VIDEOCONFERENCING, OR TALKING ON THE PHONE, YOU CAN ALWAYS BUILD TRUST AND RAPPORT WITH CLIENTS BY STATEING IN YOUR CONVERSATIONS:
➢ “I believe you.”
   o I may need to ask more questions or review what you’ve told me, but it’s not because I don’t believe that you are telling the truth.
➢ “I am not judging you.”
   o If I ask why you or he did something, it’s to make sure immigration understands. It’s not because I’m judging your choices.
➢ “It is not your fault.”
   o No matter what choices you have made, nothing you did gave your abuser the right to treat you that way.
Adapting Best Practices\textsuperscript{1} to Virtual Work Constraints

**BEST PRACTICE:**
- Meet in person for client interviews, in a setting with doors that ensure privacy, flexible seating arrangements to offer choice, and food, water and tissues to support comfort.

**VIRTUAL ADAPTATIONS:**
- If it works for your client, meet via a videoconferencing platform, such as Zoom, BlueJeans, WhatsApp, or Skype. Many clients will have smartphones that will allow for this type of engagement.
- Use the video option whenever possible to promote connection, rapport, and trust building.
- When scheduling the virtual meeting, encourage your client to eat before your appointment – particularly if it will be lengthy – and to have water or another beverage during the meeting.
- Shorten the length of the meeting. It’s not easy to sit in an in-person interview that is more than an hour or two in duration. For meetings or interviews by videoconferencing, limit to an hour or less whenever possible.
- Make sure your environment is private. Use headphones to increase privacy and protect confidentiality, and to provide a visual reassurance to your client that no one but you can hear what they tell you.
- Explain to your client where you are (home, another workspace, etc.) and that you are alone. This builds trust and transparency.
- Make sure you are in a space without other people in the background. Do not attempt virtual client meetings in public settings such as coffee shops.

**BEST PRACTICE:**
- Offer choices about space and timing to empower your client.

**VIRTUAL ADAPTATIONS:**
- Talk to your clients in advance about the need for virtual meetings.
- Ask them where they would feel most comfortable sitting during meetings as part of the conversation around scheduling.
- Use of video is best but offer choice to your client to turn off their camera so that they can see you, but you can’t see them. This may empower them to feel safer and diminish worry that they will be judged for their surroundings.
- To the extent possible, offer your client a choice about platforms for virtual meetings, e.g. phone calls vs. WhatsApp vs. Zoom or other platforms.
- Offer the client choice about timing and length of virtual meetings.
- Remind clients at the beginning of virtual meetings and frequently throughout the meeting that they can take breaks or decide to stop the meeting.
- Send any documents you’ll be reviewing together to the client in advance via mail. E-mail may be an option, too, but make sure your client has an e-mail account and is comfortable using it.

**BEST PRACTICE:**
- Allow the client to share their story how they want to, then follow up with clarifying questions.

\textsuperscript{1} Best practices are adapted from materials created by Rachel White-Domain, JD. National Center Domestic Violence, Trauma & Mental Health.
VIRTUAL ADAPTATIONS:
- Continue to allow the client to share their story how they want to. Make note of your questions but do not interrupt.

BEST PRACTICE:
- Be transparent about your role and the purpose of the meeting.

VIRTUAL ADAPTATIONS:
- Be transparent about the fact that virtual meetings are not ideal, and that you’re both trying your best to make it work in circumstances that cause stress and anxiety for many people.
- Be transparent that sometimes technology glitches, and that you may have to repeat questions or ask your client to repeat something if the audio or video glitches.
- Make a plan together with your client for what you’ll do if the call drops or you experience technical difficulties.

BEST PRACTICE:
- If your client has an acute emotional response or is triggered, ask what would help, such as
  - “Would you like a few minutes alone, or I could just sit quietly with you?
  - “Is there something else that would help right now?”
- If your client has an acute emotional response or is triggered, offer grounding helplines, such as
  - “I like your shoes. Are they comfortable?”
  - “What do you think of the colors in that painting?”
  - Or don’t say anything, just take a breath and pause.

VIRTUAL ADAPTATIONS:
- Notice and acknowledge their response, acknowledge that you’re not in the same room with them, and ask what would help, such as:
  - “Would you like to disconnect for a few minutes to be alone, or would you like to just sit with me on the screen quietly for a few minutes?”
  - “Is there something else that would help right now?”
- If you are using video, offer grounding helplines based on their setting or yours, such as:
  - What do you think of the colors in this painting behind me?
  - I like that wall hanging in the background. Can you tell me more about it?

BEST PRACTICE:
- Thank the client for sharing with you, even though things were difficult to talk about.
- Before ending the meeting, review what happened during the meeting and any next steps the client should expect.
- Take a few moments to wrap up the meeting so that the client is rushed out. Offer to walk them to the door.

VIRTUAL ADAPTATIONS:
- Thank the client for sharing with you, even though things were difficult to talk about.
- Before ending the meeting, review what happened during the meeting and any next steps the client should expect.
- Take a few moments to offer space to the client. Engage in a few moments of small talk as appropriate to transition out of the meeting. Do not abruptly end the call.