

# A TRAUMA-INFORMED APPROACH TO WORKING WITH CLIENTS, SURVIVORS, WITNESSES, & EXPERTS



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# A TRAUMA-INFORMED APPROACH TO INTERVIEWING & COUNSELING



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# ATTORNEY MINDSET

## For Effective Interviewing:

- **Be Patient**
- **Be Present**
- **Be Flexible**
- **Expect Surprises**
- **Adapt as Needed**

## **SPECIFIC SUGGESTIONS**

**EXPLAIN SIMPLY:**

**Who You Are**

**What Your Role Is**

**EXPLAIN SIMPLY & SPECIFICALLY:**

**What Will Happen During this Meeting**

**LESS is MORE:**

**Cover Only What You MUST in a Single Meeting**

# A TRAUMA-INFORMED APPROACH TO PREPARING SURVIVORS TO TESTIFY



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## CHALLENGES TO ELICITING ACCURATE INFORMATION

- 1) Attorney's lack of familiarity with the dynamics of trauma
- 2) Reluctance to testify
- 3) Distrust
- 4) Fragmented memory
- 5) Difficulty describing emotion

## **OVERCOMING BARRIERS**

- 1) Education and experience
- 2) Take the time to establish rapport
- 3) Make the effort to establish trust
- 4) Help victims to feel safe
- 5) Give victims some measure of control

# WORKING WITH MENTAL HEALTH EXPERTS IN CASES INVOLVING CLIENT TRAUMA



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# COMMUNICATING ACROSS PROFESSIONAL CULTURES

- **Lawyers and mental health professionals:**
  - Different areas of expertise**
  - Different default assumptions**
- **Talking to the client: consent for an evaluation**
- **Identifying an expert**  
**(treater, independent evaluator?)**

### *Pre-evaluation communication:*

- Find out expert's needs and expectations, and communicate yours
- Provide relevant facts/background
- Communicate issues you'd like to see addressed and how findings may fit into legal claims

### *After evaluation:*

- Discuss findings
- Provide feedback on draft report
- Discuss/prepare for potential testimony

# SAMPLE REFERRAL QUESTIONS (ASYLUM)

- Is the client **experiencing symptoms** of PTSD (or other disorders)? What are those symptoms, and how severe are they? Include a diagnosis, if warranted.
- Explain whether and why you believe those symptoms are genuine. (Reasons to rule out **malinger**ing.)
- Are the symptoms **consistent with** the history of trauma reported by the client?
- Could his or her past experiences and current symptoms **explain problematic behaviors or responses** (e.g., inconsistent recounting of experiences, lapses in memory, lack of emotional expression, or failure to file for asylum earlier)?
- What would be the **psychological impact of a forced return** to the person's home country?

# MENTAL HEALTH INVOLVEMENT IN TRAUMA-INFORMED JUSTICE



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## **MENTAL HEALTH PROFESSIONALS AS EXPERTS/CONSULTANTS**

- **Presupposition is that parties (and attorneys, judges) recognize the inherently trauma-inducing aspects of certain legal processes as well as the existence of trauma related conditions of the parties.**
- **Use of specifically-trained professionals allows legal cases to proceed within confines of established process while being informed (and presumably improved) by the most current research and practice of the mental health community.**
- **These cases are assumed to proceed more consistently with the emotional, psychological and pro-health aspects of best-level functioning. Outcomes are assumed to reflect these attributes.**

## **PRESUMPTION: WHY MENTAL HEALTH?**

**We are humans first.**

- **We each bring a set of psychologically meaningful experiences (nature and nurture) into these cases. This aspect of people is fundamental to us and informs our functioning and decision-making.**
- **These cases stimulate those experiences (metaphysically and epigenetically)**
- **We can have influence on how that stimulation occurs and what support is available for it.**
- **The mental health community is uniquely poised to provide some of that influence.**

# USE OF MENTAL HEALTH PROFESSIONALS

## As evaluators of a case

- Assess premorbid aspects of parties.
- Offer recommendations as to how these aspects may be impacted on by the proposed process.
- Offer ideas as to how the process may support both the needs of the individual as well as the needs of case.

## As consultants to a case

- Assess real-time impact on the parties. Provide link to mental health resources as needed. Provide support to the parties (as neutral intervener)
- Provide input into potential impact of case outcome on parties. Provide resources needed to support outcomes

## As experts in a case

- Respond to questions posed by the trier of fact.
- Provide neutral, multiple option assessment to the trier of fact.
- Participate in the litigation process

# CAUTIONS

**Not all mental health professionals are alike (nor are all attorneys, judges)**

- All have generic social science/mental health training. Most are well-meaning and good listeners. Most are focused on developing secure rapport, joining with perceptions of their client to allow greater support during the process.
- Some have specific training in the intersection of mental health and legal practice. These professionals typically are trained to look beyond the client's perception and raise alternate hypotheses as to other perspectives.
- A few have specific experience in the type of case, court and process involved.
- Therapists do not ordinarily make good witnesses.

**Some are therapists, others evaluators, some professional expert witnesses, some case-consultants.**

- Be sure you ask good questions and understand the limits of mental health roles.