



AMERICAN BAR ASSOCIATION

COMMISSION
ON DOMESTIC VIOLENCE

COMPREHENSIVE ISSUE SPOTTING:

A TOOL *for* CIVIL ATTORNEYS REPRESENTING

VICTIMS *of* DOMESTIC & DATING VIOLENCE,

SEXUAL ASSAULT & STALKING



Comprehensive Issue Spotting: A Tool for Civil Attorneys Representing Victims of Domestic & Dating Violence, Sexual Assault & Stalking

What Is This Tool?

This is a client-centered tool for civil attorneys new to representing victims of domestic and dating violence, sexual assault, and stalking to provide comprehensive representation and advocacy for their clients. This tool is not an intake sheet or a broad referral list, but should be used in conjunction with those items to facilitate effective and holistic client centered representation. This tool does not comprehensively address the specific needs of tribal communities.

How To Use This Tool

To maximize its usefulness, complete the Referral sections of this tool before using it with your clients. Completion of the referral sections requires individual attorneys to develop relationships with other local service providers in order to facilitate effective service delivery. **Doing this well once will save time in the future!**

Go through each topic heading with your clients. Each question under the different headings is designed to allow the attorney and their clients to identify other areas that their clients may need assistance with, even though it may be outside the scope of the attorney's area of representation and to encourage their clients to think about their lives holistically. Once you have identified areas for which your clients need assistance outside of your expertise, provide them with the knowledge and information to make informed decisions regarding accessing additional resources.

Ethical Responsibilities in Making Referrals: *When referring your clients for legal services, please keep in mind your ethical duties and responsibilities. Many states have specific guidance regarding lawyers providing referrals. For this reason, we encourage you to refer clients to organizations rather than individuals.*

Victim Privacy Note: *Being a victim of a crime raises complex issues related to victim privacy, confidentiality and privilege. It is important for the attorney to understand the intersection of these issues in order to properly inform clients about how to protect their privacy and how to authorize any releases of private information. Similarly, clients need assistance in understanding how to provide informed consent when releasing private information in order to maintain control over their personal information.*

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RESOURCES

There are a number of organizations that receive funding to provide assistance to civil attorneys representing survivors of domestic and dating violence, sexual assault and stalking. If you have questions about any of these issues, please do not hesitate to contact one of the providers listed below.

American Bar Association Commission on Domestic Violence

740 15th Street, NW
Washington, DC 20005
TELEPHONE: 202-662-1744
FAX: 202-662-1594
WEBSITE: www.abanet.org/domviol
EMAIL: abacdvt@staff.abanet.org

ASISTA

515 28th Street
Des Moines, IA 50312
TELEPHONE: 515-244-2469
FAX: 515-244-7417
WEBSITE: www.asistaonline.org
EMAIL: questions@asistaonline.org

Battered Women's Justice Project

1801 Nicollet Avenue S., Suite 102
Minneapolis, MN 55403
TELEPHONE: 800-903-0111, ext.1
FAX: 612-824-8965
WEBSITE: www.bwjp.org
EMAIL: technicalassistance@bwjp.org

Legal Resource Center on Violence Against Women

6930 Carroll Avenue, Suite 400-S
Takoma Park, MD 20912
TELEPHONE: 301-270-1550
FAX: 301-270-7272
WEBSITE: www.lrcvaw.org
EMAIL: rc@lrcvaw.org

Immigrant Women Program Legal Momentum

1101 14th Street, NW Suite 300
Washington, DC 20005
TELEPHONE: 202-326-0040
FAX: 202-589-0511
WEBSITE: www.legalmomentum.org
EMAIL: iwp@legalmomentum.org

National Stalking Resource Center National Center for Victims of Crime

2000 M Street, NW Suite 480
Washington, DC 20036
TELEPHONE: 1-800-FYI CALL
EMAIL: gethelp@NCVC.org

Victim Rights Law Center

18 Tremont Street, #220
Boston, MA 02108
TELEPHONE: 617-399-6720
FAX: 617-399-6722
WEBSITE: www.victimrights.org
EMAIL: legalhelp@victimrights.org

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I. Safety: Protection Orders



The client's safety is central to any legal assistance that is provided and a continual discussion and consideration of the client's safety is critical throughout the attorney-client relationship.

1. **Does the client fear for her safety?** _____
 - Does the offender have a gun? _____
 - Has the offender ever threatened the client with the gun or another weapon? _____

2. **Does the client have child(ren)? Is the offender a parent of the child(ren)?** _____

3. **Does the client currently have a protection order/restraining order (emergency, temporary, "permanent", civil, criminal) against the offender?** _____

4. **If the client's protection order is civil,**
 - What type? (Domestic violence, anti-harassment, sexual assault, stalking) _____
 - Has it been violated? _____
 - How many times? _____
 - Have the violations been reported to law enforcement? _____
 - Is the order registered with the local law enforcement office? _____

5. **What, if any, is the relationship between the client and the offender?** _____

6. **Does the client or offender have any mental health needs?** _____

7. **Does the client or offender have a history of drug or alcohol abuse?** _____
 - If yes, how is the client dealing with those issues now? _____

Local Resources for the Attorney to Complete

Include all relevant information: contact names, addresses, phone numbers, email addresses, web sites, times and dates of operation, etc.

I. Safety: Protection Orders

- Who has legal expertise in civil protection orders in the community? _____

- What is the local domestic violence shelter and/or domestic violence or sexual assault agency? _____

- Who, in addition to yourself, can assist the client with safety planning?

- Who is the local victim services contact at the prosecutor's office?

- What resources and/or legal expertise are there in your community for the following specific issues:
 - Lesbian, Gay, Bisexual, Transgender, Transsexual, and Queer Clients: _____
 - Youth: _____
 - Older or/and dependent adults: _____
- Who or what local agency provides mental health counseling? _____

- Who or what local agency provides substance abuse counseling? _____

II. Criminal Matters

A civil attorney representing victims of domestic violence or dating violence, sexual assault or stalking needs to know if there is a concurrent criminal matter related to the violence. A client may have reported the violence to the police but may not know what the status of the case is – e.g., whether it is being investigated or whether the offender has been formally charged with a crime. Or, the client may have already received a subpoena to attend the trial as the complaining witness.

1. Did the client report the violence to law enforcement? _____

- If yes, when? _____
- If yes, does the client know what the status of the case is? _____

2. Does the client understand what their role is in the criminal process?

3. Does the client understand that the criminal case is a separate process from seeking and obtaining any civil legal remedies? _____

It is important for the client to understand the advocates from the prosecutor's office are not in a confidential relationship with the client – whereas advocates from community based agencies are more likely to be able to offer clients confidentiality.

4. Does the client have a victim advocate? _____

- If so, who? _____

5. Does the client have concerns about privacy? _____

6. Has the client communicated with the prosecutor? _____

- If yes, does the client understand that the prosecutor is not their attorney and cannot protect their privacy? _____

Local Resources for the Attorney to Complete

Include all relevant information: contact names, addresses, phone numbers, email addresses, web sites, times and dates of operation, etc.

II. Criminal Matters

- Who is the local victim services contact at the prosecutor's office?

- Who are the local domestic violence and/or sexual assault prosecutor(s)?

- Is there someone who has legal expertise in representing the privacy interests of crime victims? _____

- What is the local rape crisis center or domestic violence agency?

- Does your state jurisdiction recognize privilege between domestic violence/rape crisis center advocates and victims of domestic violence, sexual assault or stalking?

- If so, what is the scope of that privilege? _____

III. Sexual Assault

Many victims of domestic violence are also victims of sexual assault. It can be very difficult for sexual assault victims to talk about sexual violence. Sensitivity is imperative. Because sexual assault encompasses more than rape it is important to ask these questions as broadly as possible.

1. Is the client safe? _____
2. Has anyone forced or tricked the client into unwanted sexual contact or sexual activities? _____
3. What is the client's relationship with the offender, if any? _____
4. Has the client sought medical attention as a result of the assault? _____
 - Is the client concerned about becoming pregnant or contracting a sexually transmitted infection due to the assault? _____
 - Does the client have medical bills or other income loss as a result of the assault? _____
5. Has the client received counseling since the assault? _____

Privacy issues are critical. If the client has received counseling since the assault it is potentially discoverable information – thus possibly impacting the victim's life in many unforeseen and unintended ways.
6. Is the client having problems in school because of the assault? _____
7. Is the client having problems at work because of the assault? _____
8. Did the client report the assault to the police? _____
 - If yes, is the client currently involved in criminal prosecution of the assault? _____
 - What is the name of the prosecutor on the case? _____
 - Does the client know if a criminal no contact order was issued? _____
9. Where was the client assaulted? _____

Local Resources for the Attorney to Complete

Include all relevant information: contact names, addresses, phone numbers, email addresses, web sites, times and dates of operation, etc.

III. Sexual Assault

- What is the local rape crisis center? _____

- Who in your community or nationally has legal expertise on personal injury sexual assault cases? _____

- Who in your community or nationally has legal expertise on Title IX and school-based rights? _____

- Who is the local victim services contact at the prosecutor's office?

- Who prosecutes sexual assault cases in the community of the client?

IV. Stalking

It is important for the attorney to be aware of stalking behavior. Many victims of domestic and dating violence and sexual assault experience stalking behavior but may not identify it as such. Nevertheless, it is a crime and there are also civil remedies in many jurisdictions.

1. Has the offender committed two more acts that have placed the client in fear for their safety or caused them emotional distress? _____

- Has the offender followed the victim on more than one occasion? _____
- Has the offender sent harassing phone, email or text messages to the client? _____
- Is the offender placing the client under some kind of surveillance in person, through technology, or through third parties? _____
- What other types of behavior has the client experienced? _____

2. Did the client report the stalking behavior to the police? _____

- If yes, what happened as a result? _____

- If no, does the client want to make a police report? _____

3. Does the client know if anything is happening with the report?

- Is the case being investigated? _____
- Has the offender been formally charged with a crime? _____
- Has the client been subpoenaed to testify in court? _____
 If yes, do they want to testify? _____

4. Does the client have any concerns about their privacy? _____

- If so, what are they? _____

Local Resources for the Attorney to Complete

Include all relevant information: contact names, addresses, phone numbers, email addresses, web sites, times and dates of operation, etc.

IV. Stalking

- Who locally has legal expertise in civil protection orders (domestic violence, sexual assault, stalking or anti-harassment orders)? _____

- Who locally has legal expertise in civil remedies for stalking victims? _____

- Who is the victim services contact at the local prosecutor's office? _____

V. Immigration

These types of questions may raise fear in many individuals, so it is important to be sensitive when asking these questions and to provide a context for why you are asking them. The purpose of obtaining this information is to explore whether the client may be eligible for remedies for immigrant victims of domestic violence, dating violence, sexual assault or stalking. Many people are unclear about their immigration status, so it is important to ask for documentation when possible.

1. What is the client's immigration status in the United States? _____

2. What is the immigration status of the offender? _____

3. If children are involved, what is their immigration status? _____

4. Is the client in immigration court proceedings and have they ever been deported/removed? _____
5. Does the client have work authorization? _____
6. Has the client reported any of the violence to law enforcement? _____
7. Has the client applied for public benefits? _____
8. Has the client been convicted of a crime? _____
9. Has the offender been convicted of a crime? _____
10. Is there a way for the attorney to make legal services more accessible to the client? _____
 - Is the client Limited English Proficient? (For example, do they need interpreters or bilingual advocates?) _____

Local Resources for the Attorney to Complete

Include all relevant information: contact names, addresses, phone numbers, email addresses, web sites, times and dates of operation, etc.

V. Immigration

- Who is a local expert on immigration matters? _____

- Who has legal expertise specific to battered immigrants, including trafficking? _____

- Who has legal expertise on accessing public benefits for immigrant victims?

- Who has legal expertise on the impact of criminal matters on immigration status? *(For example, if the client also has a criminal matter pending, such as a moving violation, shoplifting charge, etc., how might that issue impact their status?)*

- What is the local community-based immigration agency? _____

- What are resources for finding qualified interpreters or bilingual advocates?

VI. Children: Custody

1. Does the client have minor children? *(If no, then skip this page.)* _____
2. Are the client's children related to the offender? _____
If so, how? _____
3. Where are the children now? _____

4. Has the offender harmed the children? _____
 - Does the client know if children have witnessed or been present during an assault? _____
5. Since the assault, has anyone fled with the children from one jurisdiction to another? _____
6. Does the client have legal and/or physical custody of the children (any prior court orders)? _____
 - If yes, has the custody order been registered? _____
 - If no, does the client need custody of the children? _____
7. Has paternity of the children been established? _____
8. Has anyone ever made threats to flee to another country with the children? _____
 - Has the offender ever made any threats or taken steps to abduct the children? _____
9. Does the client have or ever had a case for Temporary Assistance for Needy Families (TANF), food stamps, and/or Medicaid on behalf of the minor children? _____
 - Does the client know of any prior orders regarding child support? Is the payor delinquent? _____

Local Resources for the Attorney to Complete

Include all relevant information: contact names, addresses, phone numbers, email addresses, web sites, times and dates of operation, etc.

VI. Children: Custody

- Who locally has legal expertise on parental abduction (including Int'l Abduction and Hague cases)? _____

- Who is a good family law resource with expertise on jurisdictional issues?

- What is the local child support enforcement agency? _____

- Who has legal expertise on battered immigrant remedies in family law cases?

- Who is a good counseling referral for children? _____

VII. Disabilities and/or Deafness

Many people who have injuries or illnesses, and/or are hard of hearing or Deaf are considered disabled under state or federal law, however they do not consider themselves to have a disability. Thus, it is important for the attorney to ask a few additional questions to ensure that the attorney has obtained the necessary information from the client.

1. Does the client (or the client's children) have any physical and/or mental disabilities? _____

2. Is the client (or the client's children) Deaf or hard of hearing? _____

3. Is the client receiving public benefits based on a disability or has the client applied to receive public benefits for themselves and/or their children based on a disability? _____

 - Was the client or the children approved or denied? _____
4. Is the client currently receiving public benefits due to a disability or that of the client's children? _____
5. Is there a way for the attorney to make legal services more accessible to the client? (For example, video relay, TTY, physical access concerns)

6. What is the best way to communicate with the client? _____

Local Resources for the Attorney to Complete

Include all relevant information: contact names, addresses, phone numbers, email addresses, web sites, times and dates of operation, etc.

VII. Disabilities and/or Deafness

- Who is a good referral source at the local Social Security Office? _____

- Who has legal expertise in disability rights? _____

- Who has legal expertise in Deaf advocacy and Deaf culture? _____

- Who has expertise in disability benefits? _____

- What is the local and/or state Protection & Advocacy System Agency? _____

VIII. Financial Concerns: Income & Consumer Debt

1. Has the client incurred debt as a result of their victimization? _____

2. Does the client have health insurance? _____

3. Has the client submitted a claim for crime victim's compensation benefits? _____
 - If yes, what is the status of the claim? _____

4. Does the client have medical and/or counseling bills? _____

5. Has the client applied for public benefits (Temporary Assistance for Needy Families, food stamps)? If no, would the client like to? _____

6. Since the assault, has the client filed for bankruptcy? _____

7. Has the client filed taxes? _____

8. Does the client have any civil judgments against them? _____

Local Resources for the Attorney to Complete

Include all relevant information: contact names, addresses, phone numbers, email addresses, web sites, times and dates of operation, etc.

VIII. Financial Concerns: Income & Consumer Debt

- Who will assist the client with their victim's compensation application?

Is there a local office where the client can go to apply? _____

- What is the local agency that has expertise in eligibility for Medicare or Medicaid (depending upon the age of your client)? _____

- What is a local resource for clients who need consumer debt reduction planning? _____

- What is a local resource that can help with taxes and innocent spouse relief?

IX. Employment

Victims may experience problems at work as a result of the violence in their lives. They may have difficulty getting to work, concentrating at work, or may need to take time off from work to attend court proceedings, meet with service providers, or heal from injuries. In addition, the violence may have occurred at work. It is important for the attorney to ask these questions in order to help the victim keep their job if they wish or obtain other remedies if the client has already left their employment.

1. Is the client currently employed? _____

2. If yes, is the client experiencing any performance-related issues at work or missed work due to the domestic violence, sexual assault, stalking or dating violence? _____

- Has the client notified the employer of the incidence of violence? _____
- Did the violence occur at the workplace? _____
- Has the client experienced discrimination at work because of the client's status as a victim? _____

3. If no, did the client lose their job due to the violence/stalking? _____

- Has the client applied for unemployment insurance? _____
- Does the client want their job back? _____
- Does the client want job training or assistance with obtaining another job? _____

4. Does the client need to miss work for upcoming court dates or medical appointments related to the violence? _____

5. Is the client being stalked at work by the perpetrator? _____

Local Resources for the Attorney to Complete

Include all relevant information: contact names, addresses, phone numbers, email addresses, web sites, times and dates of operation, etc.

IX. Employment

- What is local office where the client may apply for unemployment insurance benefits? _____

- Who locally or nationally has legal expertise in employment law and domestic violence, sexual assault, and stalking? _____

- Who is a contact at the local U.S. Equal Employment Opportunity Office? _____

- What is the local office charged with enforcement of state and/or local employment laws? (e.g., Department of Labor, Human Rights Office) _____

- What is the local job training program office? _____

- Who is a good referral if the person who assaulted the client was the employer? _____

X. Housing

1. Does the client need housing? _____

- Does the client need to change housing? _____

- Is the client experiencing any housing-related problems? _____

2. Does the client live in public or private housing? _____

3. What are the housing options that may be available to the client?
(e.g. family, friends, relatives, shelter) _____

4. Did domestic violence, sexual assault or stalking occur where the client lives? _____

- If yes, how has that impacted the client's housing situation? _____

5. Does the client believe they are safe in their home? _____

- If not, why not? _____

6. Has the client been evicted in the past? _____

Local Resources for the Attorney to Complete

Include all relevant information: contact names, addresses, phone numbers, email addresses, web sites, times and dates of operation, etc.

X. Housing

- Who has legal expertise in public housing landlord tenant law and domestic violence, sexual assault and stalking? _____

- What is the local emergency shelter for victims? _____

- What is the local transitional shelter? _____

- What is the local Public Housing Office and who is a contact there?



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