

GUIDELINES FOR WORKING WITH THERAPISTS AND PSYCHOLOGISTS

In many cases involving immigrant survivors of gender-based violence, a letter from a treating therapist or a psychological evaluation can be a useful tool to bolster the strength of an immigration application. These forms of evidence can, among other things, corroborate a client's account of abuse by showing the effects of the trauma, explain how trauma might impact a client's ability (or inability) to recount certain aspects or details of their story, and enhance your client's credibility overall. Below is an overview of these forms of proof, points to consider in deciding whether to use them, and tips to keep in mind when seeking a letter or evaluation.

A letter from a treating therapist is a letter from a treating counselor (therapist, psychologist, social worker, etc.) who is already working with your client, and which describes what the therapist has learned about the abuse your client endured in the course of their sessions together. This may include a diagnosis or may be limited to the therapist's observations. There is typically no charge to obtain a letter.

A psychological evaluation is an independent evaluation done by a non-treating psychologist or therapist, which is completed specifically for the purpose of addressing particular aspects of your client's case. The evaluator is treated as an expert in the case. The client typically meets with the evaluator, explains her experiences, and undergoes different diagnostic tests for post-traumatic and cognitive disorders and other mental health issues. The evaluator then writes up a report detailing the findings. Evaluators typically charge for the evaluation, though they may have a non-profit/pro bono rate or, in limited cases, agree to provide their services pro bono.

Therapist letters and psychological evaluations most often help to prove the following elements of Tahirih cases:

- *VAWA Self Petitions/Battered Spouse Waivers: Proving battery and extreme cruelty (VAWA)* by showing the effects of the abuse on the client. This form of proof is particularly useful when there is little or no evidence of serious physical abuse, and is extremely helpful in proving psychological/mental abuse. Proving *good moral character*, particularly if your client has negative factors in her background that relate to the abuse.
- *U Visas: Proving substantial harm (U visas)*, by showing the effects of the abuse on the client.
- *Asylum: Proving past persecution*, by showing the effects of the persecution, as well as the client's *subjective fear* of returning to her home country; proving that *extraordinary circumstances*, such as the effects of trauma, prevented the client from filing for asylum within one year of arrival to the United States, where applicable; proving that the client is *credible*.
- *T Visas: Proving force/fraud/coercion*, particularly in cases where the abuse was psychological (threats, lies, intimidation, etc.); showing that the client would suffer *extreme hardship* if forced to return to her country.

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GENERAL TIPS FOR WORKING WITH THERAPISTS AND PSYCHOLOGISTS

- *Get a signed release from your client* prior to calling, which authorizes you and the therapist to discuss the case.
- *Be very clear* before you call about why you need this letter or evaluation and what points specifically you would like to see addressed.
- *Ask the therapist how she would like to deal with any clarifications or changes you may request* once you receive a draft of the letter/evaluation. After the call, follow up with an email (or letter) and put everything in writing.
- *Request a draft of the letter or evaluation* prior to it being finalized. This will help ensure that the letter or evaluation is as specifically tailored to your client's case as possible. It will also allow you to catch and resolve any *inconsistencies* between the letter/report, your client's declaration, and other evidence. *When recommending edits, be mindful that you are working with a professional in another discipline, and take care to respect their work.*
- *Leave plenty of time!* Therapists are extremely busy. Allow at least one month for a letter from a treating therapist. Allow at least 6-8 weeks, if possible, for a psychological evaluation. In some cases, particularly if there are major inconsistencies or the draft evaluation is not exactly on point, the evaluator may need to set up an additional meeting with the client, which takes even more time.

WHEN SHOULD I TRY TO OBTAIN A LETTER FROM A TREATING THERAPIST?

In general, if your client is already receiving counseling, we recommend approaching the therapist or counselor to provide a supporting letter. Below is a sample format that you can suggest to the therapist for guidance:

1. The therapist describes her professional qualifications and the work of her employer, particularly if it is an organization that focuses on working with victims of domestic violence or other trauma.
2. The therapist provides background on client—when she began working with client and how many sessions they have had. Therapist then describes what the client has told her about the abuse she suffered. The therapist should be as detailed as possible and describe, for example (in a domestic violence case): verbal abuse, accusations of promiscuity, unwanted sexual contact, isolation tactics, physical abuse, and other forms of mental abuse used against the client.
3. The therapist describes the effects of the abuse on the client—this includes symptoms of abuse, psychological reactions, and medical conditions that resulted from the abuse, as well as any treatment the client is currently receiving, including medication.
4. The therapist gives an opinion as to whether the client is credible, given her experience with victims of domestic violence and ability to tell the difference between truth and fiction.
5. Where relevant, the therapist describes whether what the client told her amounts to “abuse,” and if so, why.
6. In cases where good moral character/discretion is relevant (good moral character, waivers of inadmissibility), the therapist should discuss positive factors she has learned about the client— that the client always comes to her appointments on time, that she is committed to her recovery, that she is a dedicated mother, that she is determined to move her life forward, etc.

7. The therapist provides an opinion as to the detrimental effects that being away from therapy/mental health services would have on the client if she were forced to return to her country.

WHEN SHOULD MY CLIENT GET A PSYCHOLOGICAL EVALUATION?

Psychological evaluations can be expensive, time consuming and very intense for the client, particularly if the client is already telling her story in other contexts. They may also be “overkill” if there is also ample evidence in support of the claim.

In other cases, however, they are very useful, often serving as the “missing link” that brings the rest of the client’s case together. They are particularly useful in cases of extreme abuse, when other evidence corroborating the abuse is lacking. If your client is an *asylum applicant who did not file within one year*, you should consult with your Tahirih co-counsel to determine whether an evaluation it is appropriate. Before contacting an evaluator, consider the following:

- *Does your client have a treating therapist or social worker?* If so, first determine what the treating therapist will likely say, and then assess what gaps, if any, still exist. For example, you may need a diagnosis of post-traumatic stress disorder (PTSD) that the treating therapist is not qualified to give.
- *Has the evaluator worked with victims of torture and trauma, as well as with individuals from different cultural backgrounds?* If possible, try to find an evaluator that specializes in working with trauma victims and has experience working with immigrants. Finding an evaluator that speaks your client’s language is also a plus, because your client will likely be able to establish a greater rapport with the evaluator and eliminate the need for an interpreter. Consult with your Tahirih co-counsel for recommendations.
- *Is the evaluator willing to testify in court?* If your client has a defensive asylum case, try to find an evaluator that is willing to testify in court. While not completely necessary, making the evaluator available for cross-examination may help strengthen the weight of the evaluation before the eyes of the court.
- *How much time do I have? What is my firm’s budget, if any?* If you are on a tight deadline, be up front when looking for an evaluator about when you need the evaluation. In terms of pricing, tell the evaluator that you are representing the client pro bono and see if they will give you the nonprofit rate (but be prepared for the firm to pay the full rate). Unfortunately, Tahirih does not have funding set aside to pay for psychological evaluations.
- *My firm has no budget for a psychological evaluation. What other options exist?*
If your firm cannot pay for the evaluation, please speak with your Tahirih co-counsel to discuss your client’s options.

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