



**TRAUMA-INFORMED INTERVIEWING:
GET THE INFORMATION YOU NEED**
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LEARNING OBJECTIVES

- Identify the key steps in telling a story
- Recognize the basic concept of trauma and the role it plays in a client's case
- Incorporate practical strategies into your practice to build rapport and help your client navigate and cope with interviewing
- Identify ways to ask about critical facts in a more trauma-informed way



HYPOTHETICAL CLIENT ROSA

Rosa is a Salvadoran mother seeking asylum based on the physical and sexual abuse of her by her domestic partner, Miguel, who is the father of her child. You know from Tahirih's case summary that:

- Rosa met Miguel as a teenager and they moved in together when she got pregnant
- After moving in together, Miguel became controlling and then started physically beating her frequently
- When Rosa tried to decline sex, Miguel would force her and sometimes beat her while raping her
- Rosa was pregnant a second time. During that pregnancy, Miguel was dissatisfied with the dinner she cooked and beat her so badly, it resulted in a miscarriage
- Rosa tried calling the police once but no one ever followed up after the report



WE KNOW WE NEED TO UNPACK ROSA'S EXPERIENCE OF DOMESTIC VIOLENCE

- Persecution
- Particular social groups
- Political Opinion
- Other grounds?
- Nexus
- Failure of state protection
- Internal relocation





BEFORE YOU START INTERVIEWING



CLIENT DECLARATION GOALS

- Provide comprehensible and credible testimony and facts supporting eligibility for relief, in your client's voice
- Provide context for client's story and experience
- Disclose and explain negative factors
- Provide a compelling document that humanizes your client



HOW DO YOU 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



UNDERSTAND THE STORY

- What background information/learning do I need to understand her story?
- How ready is my client to tell her story, and how can we establish trust and rapport?



UNDERSTAND THE STORY

- Assemble your tools of cultural and linguistic competence:
 - Training on dynamics of domestic violence, sexual assault, trafficking, forced marriage, FGM/C
 - Use resources such as Domestic Violence Power and Control Wheels and Screening Guides
 - Partner with a community-based advocate for help
 - Ensure you have competent and appropriate interpretation if necessary



HOW DO YOU BUILD RAPPORT WITH A CLIENT?

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



UNDERSTAND YOUR AUDIENCE

- Affirmative asylum officer in non-adversarial interview
- Defensive merits before a judge with a trial attorney who will cross examine



UNDERSTAND YOUR AUDIENCE

- What is most painful for client or relevant to her experience may have little or no relevance to her claim
- Understand your client's whole story, but focus declaration on key events and facts, and the context necessary to understand those key facts



CREDIBILITY UNDER REAL ID ACT

See INA § 208(b)(1)(B)(iii)

Factors considered:

- Demeanor, candor or responsiveness of the applicant/witness
- Inherent plausibility of the account
- Consistency between written or oral statements
- Internal consistency of each statement
- Consistency of statements with evidence in record
- Inaccuracies or falsehoods contained in the statements, whether or not material to the asylum claim



CORROBORATION UNDER REAL ID ACT

See INA § 208(b)(1)(B)(ii)

- Immigration judge may require applicant to present corroboration of her claim even if the judge deems testimony credible unless corroboration not reasonably available



MATTER OF A-B-

- Signaling from AG for full-forced application of Real ID Act provisions
 - “[t]here is no presumption of credibility” in favor of an asylum applicant. ... Furthermore, the identified inconsistencies do not have to be related to an applicant’s core asylum claim to support an adverse credibility determination.” *Matter of A-B-*, 27 I&N Dec. 316, 342 (A.G. 2018) (internal citations omitted).
- Credibility and consistency are all the more vital now



TRAUMA-INFORMED LAWYERING: ETHICAL AND EFFECTIVE



TRAUMA

- Individual trauma results from an event, series of events, or set of circumstances that is experienced by an individual as physically or emotionally harmful or life-threatening and that has lasting adverse effects on the individual's functioning and mental, physical, social, emotional, or spiritual well-being.

Substance Abuse and Mental Health Services Administration, Trauma and Justice Strategic Initiative, July 2014



TRAUMA

- Trauma as a concept is broader than specific mental health diagnoses such as Post-Traumatic Stress Disorder
- When there is ongoing experience of domestic violence and other harmful or threatening actions, the trauma is not just a past event. It is ongoing, and their responses may reflect acts of current survival.



WHY DOES TRAUMA MATTER?

- The impact of trauma your client has experienced and continues to experience creates challenges in our work with them as attorneys
- It may affect
 - How she perceives and interacts with others
 - Her style and ability to communicate
 - Her decision-making
 - The ability to build trust between her and you
 - Her physical and emotional ability to engage in case preparation



WHY ADOPT A TRAUMA INFORMED APPROACH?

- 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



TRAUMA-INFORMED INTERVIEWING

- Client declaration is critical to your client's success, but how can we help our clients tell their stories in a way that will satisfy the legal burden?
 - **Transparency**
 - Offer **choices** about space and timing to empower client
 - Give client **control** of telling her story

Adapted from materials created by Rachel White-Domain, JD. National Center Domestic Violence, Trauma & Mental Health



TRANSPARENCY BUILDS TRUST

- 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...”
 - “We don’t know each other very well yet, but to have the best chances of getting you asylum, I need to understand your story as much as possible by [date].”

Adapted from materials created by Rachel White-Domain, JD. National Center Domestic Violence, Trauma & Mental Health



TRANSPARENCY BUILDS TRUST

- Transparency about **your role**
 - “The reason I’m asking is so that we can be prepared for every possible thing immigration might assume or think, not because I don’t believe you.”

Adapted from materials created by Rachel White-Domain, JD. National Center
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STORYTELLING HELPS WITH MEMORY

- Explain what you want to know.
- Let your client tell his/her story.
- Ask questions to fill in details.

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MAKE ROOM FOR MORE INFO LATER

Your client may have more to share later if she

- Remembers it later
- Feels more comfortable with you
- Feels more confident about themselves

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THINGS THAT MIGHT PREVENT TRAUMA RESPONSES WHILE INTERVIEWING

- Offer options in the physical space
- Use open body language
- Explain things in advance
- Offer breaks
- Make space for self-soothing
- Be thoughtful about note taking

Adapted from materials created by Rachel White-Domain, JD. National Center
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THINGS THAT MIGHT HELP DURING A TRAUMA RESPONSE

- Notice and validate feelings
 - “That sounds really scary/hurtful.”
 - “I appreciate you sharing this with me, even though it looks like it is making you sad to talk about it.”

Adapted from materials created by Rachel White-Domain, JD. National Center Domestic Violence, Trauma & Mental Health



THINGS THAT MIGHT HELP DURING A TRAUMA RESPONSE

- Ask what would help
 - “Would you like a few minutes alone, or I could just sit quietly with you?”
 - Or is there something else that would help right now?”

Adapted from materials created by Rachel White-Domain, JD. National Center Domestic Violence, Trauma & Mental Health



THINGS THAT MIGHT HELP DURING A TRAUMA RESPONSE

- Offer grounding helplines
 - “I like your shoes. Are they comfortable?”
 - “This conference room feels very big and empty. But no one is going to bother us here.”
 - “What do you think of the colors in that painting?”
 - [Don’t say anything. Just take a breath and pause.]

Adapted from materials created by Rachel White-Domain, JD. National Center Domestic Violence, Trauma & Mental Health



THINGS YOU CAN ALWAYS SAY

- “I believe you.”
 - 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.”
 - 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.”
 - No matter what choices you have made, nothing you did gave your abuser the right to treat you that way.



PRACTICE POINTERS

- **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)

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



PRACTICE POINTERS

- **Do** emphasize client confidentiality and safety in your office
- **Do** allow your client to express sadness, frustration, and other emotions
- **Don't** attempt to continue interview without re-centering
- **Do** have a stress ball for client to use during interview
- **Do** remind client of present day, time, and location



PRACTICE POINTERS

- **Do** offer to take breaks
- **Do** be cognizant of your language and non-verbal language
- **Don't** make statements that convey judgment or shock
- **Do** maintain appropriate boundaries



PRACTICE POINTERS

- **Do** discuss preferences with your client and offer choices (open vs. closed door? Facing vs. back to window or door?)
- **Do** set a time limit and stick to it
- **Do** agree to a set of topics and stick to it
- **Do** have water and tissues on the table
- **Don't** force the water or tissues on your client





TRAUMA-INFORMED PRACTICE WITHIN THE CONSTRAINTS OF AN ASYLUM CASE



**HOW DO WE
GET THE FACTS
WE NEED ON
THE TIMELINE
WE HAVE IN A
TRAUMA-
INFORMED
MANNER?**



GETTING THE KEY FACTS AND DETAILS

- You need facts and details supporting:
 - PSG membership, political opinion, religion, and possibly other grounds
 - Nexus – what motivated the abuser to persecute your client?
 - Attempts at government protection
 - Attempts or impossibility of internal relocation
- And you need them before the merits hearing, possibly earlier than that



QUESTIONS YOU MIGHT HAVE THOUGHT ABOUT ASKING ROSA

- Why didn't you leave?
- What are your views on feminism and women's rights?
- Are you a traditional Catholic or more liberal Catholic?
- Why do you think Miguel beat you?
- Why do you think Miguel rape you?
- Why didn't you follow up with the police? Why didn't you call the next time?
- Why did you go back that time?
- What were the dates of the abusive incidents?



DIFFERENT INTERVIEW, SAME FACTS

- You don't deserve anything that Miguel did to you. The court requires us to show what Miguel's motivation was to hurt you. But it doesn't mean any of it was your fault. None of his reasons were OK.
- I am going to ask some questions to help understand from your experience what was happening so that I can help you explain it in a way the judge/immigration will understand.
- When I ask these questions, it's not because I don't believe you or because I think there is any justification for his actions. You can tell me the truth, even if it's that you don't remember. And we can stop and take a break any time.



DIFFERENT INTERVIEW, SAME FACTS

- You told me about a time that Miguel first hurt you physically. I'm going to ask you a few questions about that.
- Do you remember if it was summer or winter? (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 Miguel said anything while this was happening?



DIFFERENT INTERVIEW, SAME FACTS

- It sounds like that was a scary moment for you. What was going through your mind when it happened?
- Do you remember if you said anything?
- I know this is hard to talk about, but can we talk about the first time Miguel made you do things in the bedroom you didn't want to do? (Or forced you to be intimate?)
- It sounds like you were very brave to say no when you didn't want to have sex. What gave you the strength to say no in that moment?



DIFFERENT INTERVIEW, SAME FACTS

- I agree that you deserve to make those decisions you made about your body. How did Miguel react when you stood up for yourself?
- How did it make you feel physically when Miguel did that?
- How did it feel in your spirit/emotions when that happened?



REMEMBER...

- The effects of trauma are supported by science, but trauma-informed interviewing is an art.
- Do what you can within the constraints of a traumatic system to be trauma-informed.
- Being trauma-informed doesn't mean avoiding difficult subjects. Know where you need to end up, let your client tell her story, and ask careful questions to fill in gaps.
- Ask for help when you need it.



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