TAHIRIH JUSTICE CENTER®

A GUIDE

Adapting Trauma-Informed Lawyering Best Practices During the COVID-19 Pandemic

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.
    - 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 STATING IN YOUR CONVERSATIONS:

- **"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.

Adapting Best Practices[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.

[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.