



## ISSUE SPOTTING CHECKLIST

This checklist is intended to assist with a preliminary client interview. You should use these checklists in coordination with the Victim Rights Law Center's national Manual, *Beyond the Criminal Justice System: Using the Law to Help Restore the Lives of Sexual Assault Victims* (A Practical Guide for Attorneys and Advocates), Jessica E. Mindlin and Susan H. Vickers, Eds.

Note: The issues highlighted below must be re-assessed regularly during the course of representation as the client's circumstances change.

### ▪ Physical Safety

- Is your client afraid for her physical safety? Has the assailant made any threats of retaliation if she reports the crime?
- If yes, refer client to an experienced sexual assault or domestic violence advocate for comprehensive safety planning.
- If yes, assess viability of a protective order(s) to enhance safety.

### ▪ Privacy Concerns

- Inform client of her basic privacy rights. See *Privacy Chapter*.
- Assess whether your client has privacy concerns regarding general community exposure or disclosure to specific persons.

### ▪ Other Needs

- Financial Compensation: *Are there costs associated with the assault?*
- Employment Security: *Is her job performance being impacted by the assault?*
- Education Stability: *Is her schooling being impacted by the assault?*
- Housing Security: *Is her housing safe following the assault?*
- Immigration Status: *Does she have immigration concerns?*
- Criminal Justice: *Does she have questions about the CJS?*
- Third Party Civil Liability: *Is there possible third party liability?*

# PRELIMINARY EVIDENCE CHECKLIST

This checklist will help with a preliminary evidence assessment. *It is not exhaustive.*

## ▪ VICTIM STATEMENT

- Specific details about the assault
- Specific threats by the assailant
- Account of victim's ongoing fear for physical safety
- Description of injuries; names of possible witnesses, including medical providers
- Description of effect on life and well-being
- Elements of assault that the victim is concerned about revealing*

## ▪ Authorities in receipt of a Victim Statement(s)

- Law Enforcement Reports (District Attorney, Police, Campus Security)
- Report to Civil Authority (e.g., Housing, Education, Employer)
- Protective Order Complaint/Affidavit
- Are there multiple statements? Are they consistent?

## ▪ Assailant Statement(s)

- Law Enforcement Reports (District Attorney, Police, Campus Security)
- Statement for Civil Authority (e.g., Housing, Education, Employer)

## ▪ Potential Witnesses

- Fresh complaints (Witnesses the victim first told about the assault)
- Witnesses who saw/spoke to the victim before/after assault
- Witnesses who saw/spoke to assailant before/after assault
- Medical or Forensic Rape Kit Examiner
- Other important potential witnesses (E.g., those at "the party.")

## ▪ Physical Evidence

- Medical Records
- Rape Kit
- Toxicology analysis
- Pictures
- Scratches
- Bruises
- Lacerations
- Other Physical Evidence

# PRIVACY CHECKLIST

- **What specific privacy concerns does the client have?**
  - General Community Knowledge: Family, School, Work, Housing
  - Mental Health Care & Counseling
  - Rape Crisis Counseling
  - Medical Records
  - Past Sexual Abuse
  - Past or Present Substance Abuse
  - HIV Testing
  - Privacy of Name, Phone Number, Address, Employment, School
  
- **What disclosures have already been made? To whom?**
  - Who, What and When?*
  - In writing or verbal?
  
- **Inform victim and her family about the victim's privacy rights.**
  - General Privacy Rights (School, Employment, Housing)
  - Privacy Rights with regard to Criminal Justice System
  - Testimonial Privileges
  - Other Statutory Protections
  
- **Inform third parties/providers of victim's privacy rights as appropriate.**
  
- **Assess victim's privacy concerns with respect to the criminal justice system.**

# PROTECTION ORDER CHECKLIST

- **What are the victim's specific safety concerns?**
  - Has the victim been referred to an experienced sexual assault advocate for comprehensive safety planning?
  
- **What type of relationship did the victim have with the assailant?**
  - Boyfriend
  - Date
  - Roommate
  - Friend
  - Acquaintance
  - Other
  
- **What type of protective order may the victim qualify for?**
  - C. 209A (Household, Domestic or Significant Dating Relationship)
  - Civil Injunctive Protective Order (Arm's Length Types of Relationships)
  - Criminal-Based Stay Away Order
  - Housing-Based Order
  - Campus-Based Order
  
- **Will the Protective Order aid, interfere or conflict with any other remedies?**
  - Criminal Justice Prosecution
  - Employment Remedies
  - University Disciplinary Process
  - Housing Remedies
  - Civil Tort Liability
  
- **Limitations of Cross Examination at ten-day hearing**
  - Privacy rights
  - Motion in limine*
  - Scope of hearing

# VICTIM COMPENSATION CHECKLIST

*Remember, victims can qualify now for compensation for losses they may suffer in the future.*

- **Assessing Victim's Needs:**

- Lost Wages
- Medical Bills
- Counseling Bills
- Lost homemaker services
- Dental Care

- **Has the victim made a report to law enforcement?**

- Has the victim made a report to an alternative qualifying agency or Court?
  - Local or Campus Police
  - Chapter 209A Order
  - Report to Housing Authority

- **Check statute of limitations issues and timing of application:**

- Is it within three years of the assault?
- Does the victim qualify for "Good Cause" exception to reporting requirement?

- **Victim's Application:**

- Date of the assault
- Names of health care providers seen
- Description of injuries
- Documentation of Expenses

# EMPLOYMENT CHECKLIST

- **Is the assault related to work?**
  - Is the assailant a supervisor, co-worker or an employee?
  - Did the assault occur at work or a work-sponsored function?
  - Is the workplace unionized?
  
- **What are the Victim's work-related needs?**
  - Safety
  - Privacy
  - Employer Based Benefits
  - Time Off
    - ✓ For Medical Help, For Court Appearances, For Other
  - Schedule Changes
  - Job Security
  - Other
  
- **What benefits is the victim entitled to under State and Federal Law?**
  - Unemployment Insurance Benefits
  - Americans with Disabilities Act
  - Workers' Compensation
  - Family and Medical Leave Act
  - Victims' Compensation
  - Title VII Protection from Discrimination
  
- **What benefits may be provided by the employer?**
  - Unpaid/Paid Medical Leave
  - Vacation Time
  - Sick Time
  - Short-term Disability
  - Long-term Disability
  
- **Does the case intersect with the criminal justice system or a protective order?**
  - Is there an active criminal investigation?
  - Is there a protective order in place?

# EDUCATION CHECKLIST

- **Assessing Client Needs:**
  - Safety
  - Employment
  - Privacy
  - Tuition
  - Disciplinary Process
  - Financial Aid
  - Classes
  - Housing
  - Sports
  - What are victim's "justice goals"?
  - Do on or off-campus remedies best meet those goals?
  
- **Is the perpetrator a fellow classmate?**
  - What specific safety concerns does victim have?
  - What specific privacy concerns does victim have?
  - What specific academic accommodations does the victim need?
  
- **Does the case intersect with the criminal justice system?**
  - Has a police report been made to campus or local police?
  - Is the victim interested in pursuing criminal charges?
  - Do school policies allow simultaneous police and school complaints?
  
- **On-Campus Disciplinary Process:**      *(Get a copy of the student handbook)*
  - Are the procedures for student complaints clear?
  - What confidentiality rules and policies apply?
  - What investigation rules apply? Are there any?
  - Is there a faculty or staff advisor working with the victim?
  - Who is the supervisor or contact person for the disciplinary process?
  - What are the limitations on attorney involvement?
  
- **Are there any legal issues with regard to:**
  - Jeanne Clery Disclosure of Campus Security Act
  - The Family Education Rights and Privacy Act
  - Title IX
  - Third Party Civil Liability

# HOUSING CHECKLIST

- **Assessing Housing Needs:**
  - Is the victim a non-U.S. citizen?
  - Did the assault take place in or near the victim's residence?
  - Does the assailant live in or near the victim's residence?
  - Does the assailant know where the victim lives?
  - Does the victim live in public or private housing?
  - What specific safety and privacy concerns does the victim have?
  - If possible, does she seek to move?
  - If possible, does she seek increased security at her existing residence?
  - If possible, does she seek to have the perpetrator removed?
  
- **Does she now require access to or a transfer within public housing?**
  - Does she qualify for priority status?
  - What is the liability and duty of the Housing Authority?
  
- **Does she need assistance with a private housing agent?**
  - Liability of Private Landlords
  - Terminating a Tenancy or Lease
  - Changing Provisions in a Lease
  - Eviction in Private Housing
  
- **What are the possible non-legal remedies?**
  - Emergency Housing Shelters
  - Family or Friends



# IMMIGRATION CHECKLIST

## *Basic Do's and Don'ts*

- Reassure client about attorney-client confidentiality
- Get supervision by an experienced immigration attorney
- Get competent and culturally sensitive translation services
- Never tell a non-citizen to go to the Department of Homeland Security (DHS).
- Encourage non-citizens to talk to an immigration expert before leaving the U.S.
- If your client has received notice of a hearing with the immigration Court or interview with DHS, refer her to an immigration attorney or advocate immediately. Failure to attend a hearing or interview may result in immediate arrest and deportation.
  
- **What is your client's present immigration status?**
  - Is your client in immigration proceedings with DHS now?
  - What immigration documents does your client have?
  - Did your client ever have documents?
  - Is your client undocumented?
  
- **What is the assailant's immigration status?**
  - Is the perpetrator part of the victim's community?
- **Has your client reported to the police?**
  - Try to find out what the department's reporting policy is *before* disclosing
  - Discuss immigration protections with law enforcement
  
- **Does your client have any interest in applying for a U-Visa or other immigration status?**
  
- **Does your client have employment issues related to the assault?**
  
- **Will accessing public benefits in any way harm your client's immigration status?**

# CRIMINAL JUSTICE CHECKLIST

- **ADDRESS VICTIMS' QUESTIONS ABOUT THE CRIMINAL PROCESS**
  - ☑ If I report, do I lose control of whether the case is prosecuted?
  - ☑ Can I file a police report and then not go any further with prosecution?
  - ☑ Will my name be published in court documents or the newspaper?
  - ☑ How long will the criminal process take?
  - ☑ How likely is a criminal conviction?
- **Address Physical Safety**
  - ☑ Does your client have concerns for her physical safety?
  - ☑ Refer her to a counselor for comprehensive safety planning
- **Assess Privacy Concerns**
  - ☑ Does your client have specific privacy concerns?
    - Past sexual abuse, past or present mental health status
    - Past substance abuse
  - ☑ Inform client of privacy rights before reporting to law enforcement
  - ☑ Inform all parties in writing of victim's desire to raise any privileges
- **Prepare Victims for Interviews with Law Enforcement** (*See in depth discussion in the Criminal Chapter.*)
  - ☑ **Victims should be advised:** that issues regarding their past or present physical or mental health, substance abuse, or past sexual abuse need not be disclosed in these interviews unless directly relevant to the assault.
  - ☑ **Victims should be advised:** that any information they divulge to police, victim witness advocates, or prosecutors will be disclosed to the defense if it is potentially exculpatory.
  - ☑ **Victims should be advised:** to describe all relevant *details of the assault* as truthfully as possible.
- **Assess Options if Prosecutor Does Not Seek an Indictment**
- **Assess Options if Prosecutor Proceeds Without Victim's Consent**