Conflict Checks

Questions to Ask: What’s Unique

☐ How do you arrange intake appointments/calls?
  o Are they triaged by an intake line?
  o What is the earliest point in time that you could collect conflict check information?

☐ Does your organization make any efforts to identify perpetrators who might be calling simply in an effort to conflict the organization from representing the survivors?
  o How does your organization respond to such calls?
  o What efforts are made to prevent perpetrators from achieving this result?

☐ Does your organization have a policy about representing survivors who have also been accused of sexual assault?

☐ If you are a co-located provider, how are conflict checks conducted across programs?
  o Is it possible that you would serve both the survivor and the perpetrator, in different capacities/programs?
  o If so, is there a mechanism in place to build a firewall between the services to prevent providers from accessing the case/file of the adverse party?

☐ Are you collecting the names of all adverse parties, including the perpetrator?
  o For example, in an employment case, both the perpetrator and the employer would be adverse parties.

☐ In cases involving minors, are you collecting the names of all of the parents in addition to the minors?

Questions to Ask: Conflict Waivers

☐ Has your organization reviewed your conflict waiver policies to ensure VAWA compliance?
  o VAWA does not permit services to be conditioned upon the release of personally identifying information.
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- Have you reviewed your legal and ethical rules to determine when a conflict exists?
- If seeking a waiver, has the client given informed consent?
- Have you considered the context in which you are sharing even non-identifying information while obtaining a conflict waiver?
  - For example, in a small, insular community, even seemingly innocuous facts could identify the survivor.
- See Sample Conflict Waiver.

**Additional Issues to Address Before Conducting an Intake Interview**

**Questions to Ask: What Else Should I Address?**

- Who is considered a minor in your jurisdiction?
- Have you reviewed your mandatory reporting obligations?
  - If you are a mandated reporter, are there any situations in which you are exempt from reporting?
  - If you are a mandated reporter, must you report past abuse or abuse that occurred when the survivor was part of a protected population?
- May a minor or a survivor with diminished capacity consent to legal services in your jurisdiction?
  - If so, are those services confidential?
    - Are you required to notify anyone proactively or respond to inquiries from anyone?
  - If not, who must consent on their behalf?
    - What options are available to a survivor in your jurisdiction if the person who must consent is also the perpetrator or is unsupportive?
- See Sample Notice of Confidentiality Rights.
- Have you reviewed Chapter 5 for more in-depth information on mandatory reporting and consent to services?
Establishing Rapport & Laying the Foundation for Survivor-Centered Legal Representation

Questions to Ask: Establishing Rapport Road Map

☐ When first meeting with a survivor, do you explain what to expect from your meeting and describe your intake process?

Questions to Ask: Use a Trauma Lens When Representing Clients: Your Role

☐ Has staff been trained about the possible impact of trauma on a survivor’s physical, emotional, and psychological well-being?

☐ Have staff been trained on the impact that trauma may have on legal representation?

☐ Has staff been trained on best practices for representing survivors of trauma?

☐ Has staff been trained on how to recognize the signs of trauma and how to appropriately respond?

☐ Have all staff been trained to empower clients by:
  o Validating survivor concerns and priorities?
  o Providing options without making decisions?
  o Explaining possible outcomes without making decisions?
  o Declining any request by the survivor to make a decision for the survivor?

Questions to Ask: Communicate Clearly About Services

☐ Does your organization always explain that sexual assault – specific services are available to clients calling for the first time?

☐ Does your organization expressly communicate who you serve?
  o For example, immigrants, LGBTQ, minors, men, minors, etc.

☐ Do you explain how information is shared?
  o Both among staff and with anyone outside of the organization?

☐ Questions to Ask: Specify Details Needed

☐ Do you only ask for the information that you need?

☐ Do you explain to the survivor why you need the information you are requesting?
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- Survivors may have been subjected to victim-blaming questions when they disclosed to others. If they have had a bad experience, it will likely color the way they interpret and respond to your questions.

□ Do you confirm with client that a phone number or address is safe to use before calling or sending a letter?

□ Do you give the survivor the option not to answer, or to revisit at a later time?
  - If a survivor declines to answer, you may need to explain that this decision could impact your representation and make you a less effective advocate.

□ See Sample Sexual Assault Services Script and Sample Candor Script.

Questions to Ask: Your Role as Attorney

□ Do you explain your role as a civil attorney, including the limitations of your role?
  - For example, explaining that you do not have training as a counselor, or you do not have the ability to bring criminal charges.

□ Do you consistently establish appropriate boundaries as you work with survivors?
  - Do your boundaries still allow for some flexibility to establish rapport (e.g. chit-chat about survivors’ classes, family, vacations, etc.)?

□ When working with clients that have difficulty staying on topic or who tend to share excess information, do you ask them how you can best re-direct them?

□ Do you have resources to which you can refer clients in need of mental health providers?
  - Do you offer these resources in a delicate and trauma-informed way?

Questions to Ask: Address Trauma Impact

□ When discussing client triggers, do you also explain that the legal process itself can become a trigger?
  - Do you explain that you yourself may become a trigger?
  - Do you ask the client to communicate when they need a break, either in call/meeting or perhaps a break in the legal process?

□ Do you ask the client how you can best be supportive if they are feeling triggered?

□ Do you make a conscious effort to be watchful for behavior that might indicate the client is feeling triggered?
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- For example, talking quickly, fidgeting, watching the door, losing train of thought, blanking out, not returning calls or responding to questions, etc.)

☐ Do you have resources to which you can refer clients in need of mental health providers?
  - Do you offer these resources in a delicate and trauma-informed way?

☐ Are you mindful of your own triggers and when you might be experiencing vicarious trauma?
  - Do you have supportive resources in place for when you experience vicarious trauma?