



Conflict Checks

Questions to Ask: What's Unique

- How do you arrange intake appointments/calls?
 - Are they triaged by an intake line?
 - 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?
 - How does your organization respond to such calls?
 - 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?
 - Is it possible that you would serve both the survivor and the perpetrator, in different capacities/programs?
 - 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?
 - 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?
 - VAWA does not permit services to be conditioned upon the release of personally identifying information.




Chapter 8 Assessment Tool



- 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?



Chapter 8 Assessment Tool



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:
 - Validating survivor concerns and priorities?
 - Providing options without making decisions?
 - Explaining possible outcomes without making decisions?
 - 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?
 - For example, immigrants, LGBTQ, minors, men, minors, etc.
- Do you explain how information is shared?
 - 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?



Chapter 8 Assessment Tool



- 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?



Chapter 8 Assessment Tool



- 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?