



# Beyond the Criminal Justice System

## **CONDUCTING A HOLISTIC INTAKE**

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# **Conducting a Holistic Intake**

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## I. INTRODUCTION<sup>1</sup>

This chapter outlines the steps for conducting a trauma-informed, holistic legal intake with a sexual assault survivor. Intake is the survivor's introduction to your organization and the beginning of the relationship between attorney and client. It should reflect the organization's dedication to trauma-informed advocacy. The key to a trauma-informed intake is ample planning and preparation. You may be the first person to whom a survivor discloses their victimization, and your response is critical to the survivor's experience. The information gathered through the intake process informs the decision about whether to accept the survivor as a client.

Organizations conduct intake in a variety of ways. Some have non-attorney intake specialists, others use advocates, while others have attorneys conduct intake. You may have a pre-intake form for the survivor or a list of guiding questions used by your staff. Organizations may use various means to collect intake information including telephone meetings, virtual/video conferences, paper or electronic forms, or in-person meetings. The process may also be more or less formal depending on the organization's size and resources. Some smaller agencies may utilize attorneys for the initial intake. Other agencies may utilize legal support staff or a staff rotation system for initial intake. Ideally, organizations should offer more than one intake process to improve accessibility across survivor demographics and encourage survivors to request modifications to the process based on their individual needs.

When designing the intake process, it may be helpful to review your team's resources, strengths, and weaknesses. Make note of the size of your team, the skills and capacity of each team member, the needs of the demographic population you are serving, and the language, cultural and disability accommodation needs of potential clients. Be mindful of these things when designing or redesigning your process.

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<sup>1</sup> Preparation of this material was supported by grant number 15JOVW-21-GK-02205-MUMU awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, and conclusions expressed are those of the author(s) and do not necessarily represent the views of the U.S. Department of Justice.

Regardless of your organization's standard intake procedures, a well-designed intake process should accomplish all the following functions of intake:

1. Establish client and case type eligibility.
2. Conduct conflict checks.
3. Collect enough information to make appropriate referrals for services your organization is unable to provide.
4. Capture information your organization is required to report for grant funding.
5. Engage in basic safety planning with the survivor.
6. Communicate the next steps for the survivor.

Regardless of your procedure, every interaction with a survivor should be guided by the principles of trauma-informed care. These principles are woven throughout this chapter and are as follows: safety; transparency and trustworthiness; support; collaboration and mutuality; empowerment, voice, and choice; and intersectionality.<sup>2</sup>

## **II. PRE-INTAKE PROCEDURAL CONSIDERATIONS**

### **A. Create a Simple Intake Process**

The process to seek your program's help should be straightforward, accessible, and reduce re-traumatization for the survivor. The process must also minimize vicarious trauma and burnout for the staff conducting intake meetings.

[PRACTICE TIP: One approach is to have a voicemail system where survivors seeking help can leave a message. The greeting should clearly state the information the survivor should include in the message, how the information is kept confidential, and when the survivor should expect a call back. For example, "You have reached the intake line at [program name]. Please leave your name, phone number, whether it is safe to leave a message at that number, the city or town you are in, and a brief description of your legal issue. If you have

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<sup>2</sup> See SAMHSA's *Concept of Trauma and Guidance for a Trauma-Informed Approach* (July 2014).

upcoming important dates, such as hearings or filing deadlines, please include that information. Messages are monitored by legal program staff and will remain confidential. You should expect to hear from us within [X] days.”]

Plan your intake process carefully to ensure that a survivor does not need to share their experience multiple times to complete the process. At some programs, an initial callback may be made by a paralegal or intake specialist gathering basic demographic information necessary to determine eligibility and some information about the survivor’s goals, while avoiding asking for any details about the sexual assault itself. At programs in which attorneys conduct intake, they may provide brief services or even accept a case during that initial meeting. In those cases, an intake may be lengthy and detailed. Regardless, the individual conducting the intake should set appropriate expectations at the start of the conversation. Consider the staff involved in your program and plan an intake process that minimizes the frequency with which a survivor must re-tell their story.

### **1. Reduce Barriers**

One crucial step in creating a trauma informed intake process is to review your current or proposed intake process for unintended barriers it may create for survivors, particularly underserved survivors. To help you identify areas where you can reduce unintentional barriers and improve survivors’ experience, you should consider input from a variety of individuals including staff at all levels, current and former clients, and community partners who may have referred clients to your services. Consider collecting feedback from your community partners that specialize in working with immigrant, LGBTQIA+, disability, or other marginalized communities. These organizations may be able to recommend ways to reduce barriers for their communities.

Additionally, when possible, offer multiple intake formats and allow the survivor choice about which intake process to utilize. For example, some survivors may be more comfortable meeting in person rather than talking over the phone. Other survivors may have to work around complicated school or work schedules, and others may prefer to do a video call from their home. When reviewing your intake process for unintentional barriers, consider the following questions:

1. Are the intake formats offered accessible to survivors of all ages and technological proficiency? (For example, older survivors may be unlikely to use a text message system, while youth will be less likely to cold call a phone line intake.)
2. Is the intake system accessible for individuals who need to use public transportation, need large print, use TTY or ASL, or require other communication accommodations?
3. Is there a way for survivors with limited English proficiency to access the intake process? (For example, do you offer your intake form or voicemail in multiple languages?)
4. Are the questions written in plain language accessible to all education levels? (Best practice is to use plain language and avoid legal jargon. If you must use legal terms, acronyms, or specialized terms, provide an explanation or definition.)
5. Does the process incorporate trauma-informed principles? (Do you only ask for the information necessary to determine eligibility, conduct conflict checks and collect necessary grant reporting data? Are they given choices when possible?)
6. If providing in-person intake, are the intake hours and locations accessible to individuals working a variety of work shifts, using public transportation, or living in underserved neighborhoods?
7. Can survivors request an alternate intake location or system?

## **2. Intake Forms**

If your program chooses to use an intake form, careful consideration should be given to what information is collected. Some programs have intake forms for internal use and complete them along with the survivor. Other programs require survivors or other providers to complete the form to initiate an intake process.

An intake form must be created with varying, and sometimes conflicting goals in mind. It should be short enough that it does not become overwhelming and a barrier to service. However, intake forms are often used to collect information required for grant reports. When possible, limit the intake form to avoid overwhelming the survivor before the process has even begun. Plain language should be used throughout with an effort to

avoid legalese where possible.<sup>3</sup> Project narratives, case selection criteria, and grant reports can serve as guides when creating the intake form. If your program is funded through the Office on Violence Against Women (OVW), this step is even more important as OVW does not allow the use of funds for activities outside of what was included in the application.<sup>4</sup> The intake form may then act as a screening for eligibility and qualification for grant-funded services. At a minimum, it may be important to collect information such as type of victimization and location where the crime occurred if you have a specific catchment area.

Some intake forms include space for a narrative. This should be optional. Including space for a narrative allows the survivor to explain their experience in their own words. For some survivors, this may be empowering. Others may prefer to share their experience directly with a person during an intake meeting.

## **B. Conflict Checks**

Attorneys need to check potential clients for conflicts before starting an attorney-client relationship. VAWA-funded legal assistance providers have additional obligations to protect survivors' information, including when they notify a potential client of a conflict of interest.<sup>5</sup> If a conflict exists between a current client and a potential client, VAWA-funded organizations cannot

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<sup>3</sup> See Victim Rights Law Center, Guidelines for Attorneys in Massachusetts: Representing Sexual Assault Survivor's with Intellectual and Developmental Disabilities (2019) <https://victimrights.org/wp-content/uploads/2021/01/IDD.pdf>.

<sup>4</sup> The recipient agrees that grant funds will be used only for the purposes described in the recipient's application, unless OVW determines that any of these activities are out of scope or unallowable. The recipient must not undertake any work or activities that are not described in the recipient's application, award documents, or approved budget, and must not use staff, equipment, or other goods or services paid for with grant funds for such work or activities, without prior written approval, via Grant Award Modification (GAM), from OVW.

U.S. Department of Justice, Office on Violence Against Women: FY2023 General Terms and Conditions (2023).

<sup>5</sup> Grantees shall not "disclose, reveal, or release any personally identifying information or individual information collected in connection with services requested, utilized, or denied through grantees' and subgrantees' programs, regardless of whether the information has been encoded, encrypted, hashed, or otherwise protected..." 34 U.S.C. § 12291(b)(2)). "Personally identifying information" includes information "that would serve to identify any individual." (34 U.S.C. § 12291(a)(25)(E)).

share personally identifying information collected in connection with services with either individual.

A well-designed intake process will have written guidelines for staff conducting conflict of interest checks. This ensures that staff are consistently applying the same procedures. Intake procedures should allow the organization to collect enough information to conduct the conflict check (such as name, date of birth, and location) before the client discusses their case with an attorney. If your organization utilizes attorneys to do the intake, complete the conflict check before the attorney meets with the survivor or at the beginning of the meeting with a directive to the potential client not to share details about their case before you determine there is no conflict. Some agencies choose to screen for case eligibility and conflicts at the same point in the intake process (such as through an initial intake form), while others choose to screen for eligibility before requesting information for the conflict check.

[CHECK YOUR JURISDICTION'S LAW: It is important to review local guidance and caselaw to ensure your intake procedures are compliant with your jurisdiction's conflict of interest requirements.]

### **C. Interpretation and Translation**

To ensure your legal services are meaningfully and equitably available to survivors that have limited English proficiency, advanced planning for interpretation and translation must be built into every aspect of your services, including intake. Do not wait until a survivor with limited English proficiency reaches out to develop a language access plan. Survivors that reach a voicemail in English only or access a website without a translation toggle will already be on alert that these services were not designed for them and may not be accessible to them. Language access planning should include all written intake materials, telephone lines, voicemails, and in-person intake. Translate written intake materials into languages commonly used in the communities you serve or are hoping to serve. Add translation or translation toggles to the organization's website. Train intake staff on your organization's language access policy and available language services so they can easily and quickly obtain language services for walk-in or call-in intakes. Intake interpretation should be an expected part of

providing equitable legal services and must be built into budgets ahead of time. Relying on survivors' friends, family, or community members to provide interpretation compromises the survivor's privacy.

#### **D. Accessibility**

It is vital for a legal program to anticipate and prepare to accommodate any accessibility requests from survivors.<sup>6</sup> If your program uses an intake form, it should include a space for accommodation requests. (See *Representing Survivors of Sexual Assault with Disabilities* for a discussion of serving survivors with disabilities and assessing program accessibility.) Otherwise, survivors should be asked about disability and accommodations before an intake meeting.<sup>7</sup> The list of questions below is meant to be a guide and is not exhaustive.

Pre-Intake Questions:

1. *[Where a survivor has not already identified a disability, ask the following]:* Are there any accommodations you need to access our intake and legal services, such as specialized technology, ASL interpretation, large print materials, a wheelchair accessible location, or other modifications?
2. *[Where a survivor has already identified a disability, ask the following]:* My understanding is that you have identified yourself as having a disability. What would you like me to know about your disability?
3. *[Where the survivor has previously identified accommodations that they need]:* Have we met your requests for accommodations today? Is there anything else you need to help you access our meeting today?

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<sup>6</sup> Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, *et. seq.* (1990) (requiring that public accommodations, including legal services, are accessible to people with disabilities). For additional information, see *Representing Survivors of Sexual Assault with Disabilities*.

<sup>7</sup> See *generally*, Victim Rights Law Center, Guidelines for Attorneys in Massachusetts: Representing Sexual Assault Survivor's with Intellectual and Developmental Disabilities (2019) <https://victimrights.org/wp-content/uploads/2021/01/IDD.pdf>.

4. Do you have a legal guardian or other representative? *If yes, it should be up to the attorney to explore the scope of guardianship and implications.*
5. Do you want, or need, anyone else to join you for our meeting? *If yes, you will need to explore potential confidentiality and privilege issues based on your jurisdiction.*

## **E. Considerations for Minor Survivors**

When working with survivors who are minors, it is important to understand their rights to consent to counseling, mental health care, medical care, housing, etc., in your jurisdiction.<sup>8</sup> In some states, minors may be able to legally consent to services without the consent of a parent.<sup>9</sup> In states where the law is silent on this, your program should have a clear policy. The policy should address whether there is a minimum age to participate in the intake process (with and without a parent or legal guardian).<sup>10</sup> Trauma-informed legal services must be survivor-led. If a minor is capable of understanding the intake process, they should be permitted to engage in it.<sup>11</sup> Some factors to consider when determining whether a minor is capable are age, maturity, education level, and mental health.<sup>12</sup> In the event that the minor is not capable, the intake process would need to be completed with a non-abusive parent or guardian. In some circumstances, you may conduct an intake with a parent or guardian, and then check-in with the minor after to confirm intent and consent to engage in legal representation.

Whenever possible, empower the minor to make the choice that is right for them, regardless of the parent or guardian's wishes. If it is clear to you that

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<sup>8</sup> See *generally* Victim Rights Law Center, *Minor's Privacy Toolkit* (2018), located in VRLC's resource library at <https://victimrights.org/resource-library/> [hereinafter VRLC Minor's Toolkit].

<sup>9</sup> Consent to receive legal services does not necessarily equate to legal decision-making power across the board. You should have a thorough understanding of what limitations exist on minor clients prior to engagement. See *generally* VRLC Minor's Toolkit.

<sup>10</sup> Organizational policies may be restricted by grant funding; for example, some OVW funding limits organizations from providing services to individuals under age 11.

<sup>11</sup> See *supra* SADI Intake.

<sup>12</sup> Vera Institute of Justice, *Guidelines for Obtaining Informed Consent from Minor Clients* (Jul. 2019) [https://www.vera.org/knowledge-bank/Guidelines-for-Obtaining-Informed-Consent-from-Minor-Clients\\_2021-03-05-170432.pdf](https://www.vera.org/knowledge-bank/Guidelines-for-Obtaining-Informed-Consent-from-Minor-Clients_2021-03-05-170432.pdf).

the minor does not wish to engage further in legal services, you should offer appropriate referrals for support and allow the minor to reach back out in the event they change their mind. If you have mandatory reporting obligations, those should be shared prior to obtaining any information from the survivor or the parent/guardian. There are unique considerations for working with minors (especially for those with intersecting identities) outside of legal obligations, and you should be trained and prepared to address those when taking on a minor as a potential client.<sup>13</sup>

## **F. Vicarious Trauma**

Intake staff experience extremely high rates of vicarious trauma. They are often engaging with survivors at the height of a crisis and may even be the first person that survivors disclose their experience to. Additionally, these staff are often responsible for delivering difficult news to survivors about case eligibility or capacity and receive the brunt of anger and frustration about the injustice of their situation. It is also common for intake staff to be newer staff with less privilege and power at the organization. Be aware of the power imbalance that can occur when staff with very little institutional power are charged with regularly absorbing trauma from survivors. If your intake staff are from historically marginalized communities, the risk of a power imbalance leading to burnout is even higher.

A trauma-informed intake process will build resiliency practices, self-care, community care, and trauma response support into the process for any staff responsible for conducting intake. Some organizations may choose to rotate intake responsibilities to give individuals a break from being on the front line. Other trauma-informed policies to support intake staff may include limiting 'live intake hours,' adding self-care space in the office, allowing staff breaks before and after intake to reduce stress response, or creating a weekly hour for staff to debrief trauma. After a particularly traumatic experience, your organization should immediately and affirmatively offer additional support to intake staff. Some ideas may include bringing in a therapist or other trained trauma professional, granting

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<sup>13</sup> See Karen A. Reitman, *Attorneys for Children Guide to Interviewing Clients: Integrating Trauma Informed Care and Solution Focused Strategies* 4 (2011), [https://s3.amazonaws.com/PHR\\_other/guide-to-interviewing-child-clients.pdf](https://s3.amazonaws.com/PHR_other/guide-to-interviewing-child-clients.pdf); see also Sarah E. Valentine, *Queer Kids: A Comprehensive Annotated Legal Bibliography on Lesbian, Gay, Bisexual, Transgender, and Questioning Youth* 19 *YALE J. L. & FEMINISM* 449 (2007-2008).

additional time off from work, and/or meeting individually with staff to debrief their experience. Meet with and incorporate intake staff's feedback, ideas, and thoughts about how to address vicarious trauma into your intake procedures.

### **III. INTAKE PROCEDURE**

#### **A. Expectations**

Be intentional about setting expectations at the outset of the intake process. Boundary-setting can be very empowering for the survivor and explaining roles allows for transparency. If non-attorneys conduct intake at your program, they should explain the limitations of the non-attorney role to the survivor at the beginning of the intake process. If conducting an intake is not a guarantee of legal representation, that should be made clear at the outset. Explain your program's client acceptance decision-making process and timeline. If you do not need to ask the survivor about the details of the assault (because it is either not necessary or they have already been provided), let them know early in the conversation. This will hopefully serve to minimize their anxiety. Allow the client to set the pace of the intake meeting. Avoid rushing or interrupting the client unless it is necessary for your own understanding. Tell the survivor that they are in the driver's seat at every step of the process. Explain what information will be collected and why that information is important. For example, some information may be specific to running a conflict-of-interest check, some may be required by funders, and some may be needed to identify potential referrals. Explaining the reason behind certain questions will enhance transparency and help to build trust.

Thoughtful consideration should be given to the timeframes established for callbacks and intake follow up. While responsiveness is important, it must be balanced with the needs of staff conducting intake, call volume, and capacity. While some cases may need to be prioritized, timelines should be realistic so that they can be consistently met. Intake is the program's first opportunity to build trust with the survivor and responding within the timeframe given is an important first step.

Anyone conducting intake must be trained on the neurobiology of trauma and trauma-informed interviewing techniques.<sup>14</sup> It is especially important to understand how trauma impacts a survivor's responses, memory, and recall. Some survivors may be experiencing high levels of anger and frustration and direct those emotions at you during an intake. Expect to have some survivors who are upset, emotional, and/or yelling. Identify and implement resources that will assist your team in supporting survivors who experience a strong trauma response during the intake process, including consulting with clinical supervisors on difficult cases. It is not okay for a survivor to be abusive toward intake staff or their attorney, but knowledge about the impact of trauma may help you understand the survivor's behavior. Be prepared with strategies to de-escalate, redirect, or gently suggest an alternative time to meet. Your program may decide to discontinue services if the survivor's behavior becomes abusive. Create a clear policy on what factors inform that decision. This ensures services are not discontinued prematurely, while also supporting and protecting your program's staff.

## **B. Privacy and Confidentiality**

If you are conducting an intake meeting by telephone or video, it is important to ask at the beginning of the call if it is still a good time for the survivor to talk. Confirm that they are in a private space. If you are on video with the survivor, be attuned to the physical space around the survivor and take notice if they appear to be looking at or speaking with a third-party as this may affect confidentiality/privilege in your jurisdiction. Assure the survivor at the outset that you are in a quiet, private space where no one can hear your conversation. Take steps to ensure your meeting space supports survivor privacy by using headphones, sound machines, privacy screens, etc. Let the survivor know what steps you have taken to ensure the privacy of their information in order to maximize transparency and trust.

If your program offers in-person intake, whether at your office location or other in-person locations, consider privacy when choosing and setting up the physical space. Set up the space physically so that the survivor can see and access the exit. Make sure that the survivor is not visible to passing

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<sup>14</sup> Wilson, C., Lonsway, K.A., Archambault, J. (2022). Understanding the Neurobiology of Trauma and Implications for Interviewing Victims. End Violence Against Women International.

traffic by using curtains, screens, or frosted windows. Make sure the survivor cannot be overheard by using a separate room and sound machines.

It is essential that all staff understand their mandatory reporting obligations, confidentiality obligations, and privilege protections. Staff training regarding mandatory reporting should emphasize the importance of respecting survivors' autonomy and providing them with informed choices.

All staff should appreciate the real-life implications of making a report and analyze each case independently and with a supervisor to avoid unnecessary and/or inappropriate reports that may cause harm to a survivor and their family. (See *Protecting Sexual Assault Survivors' Privacy* for an in-depth discussion of legal protections for survivors' confidentiality and best practices.) Mandatory reporters should be prepared to interrupt if a survivor begins to share information that could trigger a report before they have had a chance to explain their reporting obligations.

### **C. Candor**

To effectively build trust and rapport with the survivor, it is essential to be as open and honest as possible. Pay close attention to tone and body language throughout the intake. Ensure you are not reacting in a way that would make a survivor feel judged. You should strive to mirror the survivor's language and word choice so they feel supported. You may even want or need to practice using words related to sexual assault cases to establish comfort with commonly used terms. Avoid using complicated words, abbreviations, acronyms, or legalese when possible. If legal terms are necessary, explain each in plain language. Your program should consider crafting sample plain language scripts to describe various legal concepts, such as attorney-client privilege.

It may be helpful to openly acknowledge and discuss with survivors the effects of trauma on the brain, memory, and other ways it may play a role in your interactions. Survivors may have difficulty setting out a concise chronology of events. Their concentration may be impaired and, as a result, they may need you to simplify and repeat information. They may be experiencing feelings of self-blame, anger, and frustration, or they may be (or appear to be) significantly minimizing the impact of the assault. Expect

a lot of apologies from the survivor if they are experiencing brain fog, memory lapses, or sharing the story in a non-linear way. It is important to validate what the survivor is experiencing by letting them know it is completely normal and to be expected. Reliving any part of the victimization may cause a trauma response. Recognize when that is happening and be prepared to navigate through it.<sup>15</sup>

Lastly, avoid making assumptions. Ask clarifying questions, when appropriate, to ensure you have accurate information and ensure you do not make mistakes about what a survivor means. Remember that not everybody uses the same words to describe an event or defines certain terms the same way. If a survivor categorizes their victimization, make sure to follow up with them for clarity. Their eligibility for services and particular legal remedies may depend on the precise victimization and having accurate, specific facts is important. For example, a survivor might describe their experience as sexual harassment, even if it involves nonconsensual touching. This distinction could determine the survivor's eligibility for your program's services; clarifying what the survivor means is critical.

#### **D. Safety Planning<sup>16</sup>**

A survivor's physical, emotional, and psychological safety should be of paramount concern during the intake process. The first step to ensuring physical safety when on a telephone or video call is to ask the survivor about the space they are in. Is it private? Is it comfortable? Are there any physical comforts they might want with them, such as a pet, a blanket, a beverage, etc.? Be mindful of the survivor looking off camera or hearing voices in the background. Use chat or text to communicate if you have concerns that the survivor may not be able to speak freely.

The ultimate goal is to help aid in their healing by minimizing opportunities for re-traumatization and providing appropriate support when needed. Demonstrate to the survivor that you understand the difficulty of discussing and reviewing details of the assault. Check in to see if the survivor has a plan for emotional support following the intake. Prevent exacerbation of

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<sup>15</sup> Trauma responses are explored in greater detail in the next section on Safety Planning.

<sup>16</sup> Legal safety planning will be discussed in depth later in the chapter when we introduce issue spotting.

trauma symptoms<sup>17</sup> by limiting the repetition of questions that require the survivor to detail the assault. Ask the survivor about stressors they are experiencing in all areas of their lives and offer additional, relevant resources.

While providing support is crucial, it is important to remember your role in the process and maintain appropriate boundaries. You should be properly trained in safety planning techniques, but you should not be expected to provide clinical support to the survivor. Organizations need to have clear policies in place to help intake staff navigate challenging situations and provide support to staff during and after they arise.

## **E. Cultural Considerations, Humility, & Intersectionality**

Consider a survivor's identity and the unique barriers they may face as they navigate legal and non-legal systems.<sup>18</sup> First, you should explore your own cultural stereotypes and biases in order to actively identify and confront, them.<sup>19</sup> At all times, the intake process needs to be gender inclusive, acknowledge the healing value of traditional cultural connections, and be responsive to the survivor's racial, ethnic, and cultural needs. Operating with cultural humility requires you to listen with interest and curiosity, be aware of your own biases, maintain a non-judgmental stance, and recognize your inherent status of privilege as an attorney or advocate. A trauma-informed intake requires attorneys and advocates to follow the survivors' lead whenever possible.<sup>20</sup>

### **1. Cultural Responsiveness**

Providing a culturally responsive intake process requires an awareness of and sensitivity to the fact that the survivor's experience of a sexual assault is influenced by their cultural, religious, social, socio-economic, and historical customs, beliefs, values, and community. Do the work ahead of

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<sup>17</sup> See SADI Intake.

<sup>18</sup> See generally Grace Ajele and Jena McGill, *Intersectionality in Law and Legal Contexts*, Women's Legal Education & Action Fund (2020) <https://www.leaf.ca/wp-content/uploads/2020/10/Full-Report-Intersectionality-in-Law-and-Legal-Contexts.pdf>.

<sup>19</sup> See Donald J. Polden and Jenna M. Anderson, *Leadership to Address Implicit Bias in the Legal Profession* 62 Santa Clara L. R. 63, 75, 82 (2022).

<sup>20</sup> See Ajele and McGill at 35.

time to partner with culturally specific partners and train your staff on cultural considerations for the community demographics you are working with. Different communities will have different norms on communication, sexuality, mental health, and even ideas about working with lawyers. Be aware of the ways in which these may conflict with Western culture, your culture, or your organization's culture. Be prepared to allocate additional client time to garner an understanding of the specific survivor's experience and perspective. For example, be prepared and comfortable asking questions about a survivor's gender identity and the pronouns they use. Another example is allocating extra intake time and securing proper interpretation services for limited English proficiency (LEP) and deaf and hard of hearing individuals ahead of time. Another example may be preparing to work with cultures where it is normal to bring children, elders, or male family members to important business meetings, such as meetings with a lawyer.

## **2. Considerations for LGBTQIA+ Survivors<sup>21</sup>**

Individuals who identify as LGBTQIA+ may intentionally omit information to protect their privacy. For example, LGBTQIA+ survivors may not want people in their family or community to know how they identify within this community for fear of safety and/or stigmas associated. Be prepared to talk about homo/bi/transphobia and safety plan specifically around their identity as LGBTQIA+. Be open, familiar, and educated with LGBTQIA+ issues and terminology.<sup>22</sup> Disclose the reasons you need to ask any questions related to a survivor's identity before asking those questions. Remember that the legal system can render many LGBTQIA+ people invisible. Avoid asking, "Are you a man or woman?" or "What is your legal sex?" Instead, you can ask, "How do you identify your gender?" and if necessary for your case evaluation, "What is the gender marker that appears on your birth certificate or driver's license?"<sup>23</sup> Create a script and practice asking

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<sup>21</sup> See Victim Rights Law Center, *Safety Planning with LGBTQ+ Sexual Assault Survivors: A Guide for Advocates and Attorneys* (2017), available at <https://victimrights.org/resource-library/>.

<sup>22</sup> Trans Student Educational Resources, 2015. "The Gender Unicorn." <http://www.transstudent.org/gender>.

<sup>23</sup> See New York City, *Respectfully Asking Sexual Orientation and Gender Identify Questions*, [https://www.nyc.gov/assets/acs/pdf/lgbtq/Respectfully\\_Asking\\_SOGI\\_Questions.pdf](https://www.nyc.gov/assets/acs/pdf/lgbtq/Respectfully_Asking_SOGI_Questions.pdf); see also Hil Malatino and Lars Stoltzfus-Brown, *Best Practices for Gender Inclusion in Research* (Oct.

questions until you feel comfortable. If you make a mistake, remember you are human. Acknowledge your mistake, offer an apology, and move on.

Sample Script:

“My name is \_\_\_\_\_, I use she/they pronouns. What pronouns do you use?”

“We work with many survivors who identify as LGBTQ and want to support you however we can.”

“I want to make sure the language I am using feels right for you. I will do my own work and check in with you periodically, but always feel free to let me know if I should be saying or doing something differently.”

“I hear you using \_\_\_\_\_ to describe your identity. Is that a term that would be ok for me to use?”

## F. Goals & Legal Issue-Spotting

Identifying a survivor’s goals is an important part of the intake process.<sup>24</sup> It may not always be a realistic endeavor, but you should do the best you can to determine the survivor’s objectives. Some survivors may be calling simply for information and referrals while others might know exactly what outcomes they hope to achieve right from the outset. It can be helpful to walk through some potential options in either scenario. This can best be achieved by engaging in criminal justice advocacy and issue spotting for civil legal needs. The following is a non-exhaustive list of initial questions you can ask to identify potential legal issues and remedies, and to develop a safety plan.<sup>25</sup> During each intake, you should determine which questions

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14, 2020) <https://covidupdates.la.psu.edu/wp-content/uploads/sites/9/Gender-Inclusion-in-Research.pdf>.

<sup>24</sup> American Bar Association Standing Committee on Legal Aid and Indigent Defense, *Standard 5.1 on the Organization’s Intake System and Access to Services* [https://www.americanbar.org/groups/legal\\_aid\\_indigent\\_defense/resource\\_center\\_for\\_access\\_to\\_justice/standards-and-policy/updated-standards-for-the-provision-of-civil-legal-aid/standard-5-1-on-the-organization-s-intake-system-and-access-to-s/](https://www.americanbar.org/groups/legal_aid_indigent_defense/resource_center_for_access_to_justice/standards-and-policy/updated-standards-for-the-provision-of-civil-legal-aid/standard-5-1-on-the-organization-s-intake-system-and-access-to-s/).

<sup>25</sup> See Victim Rights Law Center, *Safety Planning with Adult Sexual Assault Survivors: A Guide for Advocates and Attorneys* (2013), available at <https://victimrights.org/resource-library/>.

should be asked based on the information you have gathered up to that point.

1. What is your relationship, if any, to the perpetrator?<sup>26</sup>
2. Have you spoken to law enforcement or the police about what happened?
3. Have you had contact with the perpetrator since the assault?
4. Do you feel safe at home?
5. Do you work with the perpetrator?
6. Do you go to school with the perpetrator?
7. Do you live near the perpetrator?
8. Are you afraid that the perpetrator will attempt to harm you again or that they pose an ongoing threat to your safety?
9. Are you interested in obtaining a protective order?<sup>27</sup>
10. Have you been to any court for any reason associated with the assault?

Depending on the survivor's answers, be prepared with follow-up questions to continue legal issue spotting and safety planning. For example, if the survivor says that they are reaching out for representation at a protection order hearing, here are some follow-up questions:

1. Has an application for a protective order already been made?
2. When is the hearing date?
3. At what court will the hearing be held?
4. Do you have a copy of the application and your affidavit?
5. Have you gone in to get a protective order against this person before?

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<sup>26</sup> It may be entirely appropriate for you to ask the survivor how they would prefer you refer to the person who caused them harm so you can honor their wishes throughout the intake and beyond.

<sup>27</sup> Protective Orders for sexual assault survivors are jurisdiction specific. Check your state law to see what protective orders are available for sexual assault survivors.

6. Do you have any children in common with the perpetrator?
7. Are there any pending probate or family matters?
8. (If survivor is a minor): Did you/they participate in the first hearing?
9. Will you need any accommodations at the hearing? (Interpreter, physical accessibility considerations, breaks, service animals, etc.)
10. Is there a related criminal case? Is there a stay-away/no-contact order in that case?
11. Do you know if the perpetrator has legal representation?

Obtaining this information at intake will help to assess availability, capacity, case strategies, and preparation time needed. Prepare a list of intake questions like the one above for each area of law practiced at your program.

## **G. Next Steps and Expectations**

Before ending the intake process, let the survivor know the next steps and set realistic expectations for the process. Offer appropriate and responsive external referrals. This may require obtaining an authorization to release information and having a related conversation about that process and the potential consequences of such a release.<sup>28</sup> If you think your legal program may be able to help the survivor because they are eligible and have qualifying legal issues, be transparent with the survivor about your organization's procedural next steps. For example, if cases are presented once a week for review, that should be explained prior to concluding the intake. If there are legal matters already underway, you should ask the survivor to send any paperwork immediately. This is especially important in cases with tight timelines, such as civil protective orders. Identify the next steps you will take and any that the client needs to take as well.

If the survivor presses for legal information or advice at the intake phase and you are not a licensed attorney, you should be prepared to respond by explaining your role and the limitations. Gently remind the survivor of the

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<sup>28</sup> See Office of Violence Against Women, Frequently Asked Questions (FAQs) on the VAWA Confidentiality Provision 34 U.S.C. § 12291(b)(2))(October 2017) <https://www.justice.gov/ovw/page/file/1006896/download>.

next steps you are going to take with the information you have gathered and when they can expect to hear back regarding potential representation or brief advice. Reiterate important parts of the safety plan that you have discussed previously with the survivor. Lastly, remind the survivor about confidentiality of the information you gathered and the people with whom you intend to share it.

#### **IV. CONCLUSION**

Building trust with the client is critical. Beginning an attorney-client relationship with a trauma-informed intake lays the groundwork for a relationship built on trust and collaboration. As the case moves forward, it is important to maintain a survivor-led process. Prioritizing the principles of trauma-informed care in your legal work strengthens the attorney-client relationship and empowers survivors.