

Trauma-Informed Lawyering: A Tip Sheet for Family Lawyers

This resource is the product of conversations with survivors of gender-based violence, agencies and counsellors in the gender-based violence sector and family lawyers.

By incorporating these tips into your family law practice, you can continue to provide high quality legal services and reduce the chance of contributing to your client's trauma. Your lawyer-client relationship will be strengthened, particularly with those clients who have experienced trauma due to gender-based violence.

This approach is a way of offering legal services in a context of empowerment and respect. Supporting a person affected by trauma is a team effort and lawyers are in a unique position to provide an essential service and contribute to their recovery.

Gender-based violence is the use and abuse of power and control over another person, perpetrated against them due to their gender identity, gender expression or perceived gender. Violence against women and girls is one form of gender-based violence. It also has a disproportionate impact on LGBTQ2 and gender-non conforming people.

Trauma is the unique experience of an event or condition in which the survivor experiences a threat to their life or to their mental or physical integrity which results in intense fear, helplessness and/or horror. The result is the survivor's coping capacity and their ability to process the emotional experience is overwhelmed. The effects are long-lasting.

Trauma-informed lawyering is a client-centred approach to providing legal services. Everyone's experience of trauma is different and the effects of trauma can manifest in many ways, making a client an expert in their own experience. Legal services are offered with the knowledge that trauma can affect the way that people interact with each other.

Relationship Building

You are not expected to be your client's counsel AND therapist and your client's expectations must be managed as such. In order to maintain a healthy lawyer-client relationship, there are strategies you can use so that your client feels emotionally secure:

- Validate their concerns, frustrations and fears.
- When solicitor-client privilege allows, offer your client the opportunity to have a support person with them.
- Consider having tissues and water on hand at all client meetings.
- Acknowledge your client's strength, resilience and resourcefulness.
- If a client is breaking down, unable to continue or disconnecting, ask how you can help.
- Ask if they have someone they can talk to or check in with after each meeting or court appearance.
- Encourage your client to connect with social supports and practice self-care.
- Have the appropriate referrals ready. Pamphlets, business cards or specific numbers for services are helpful. Call 211 or search on 211ontario.ca to connect with resources in your area.

When I cried in front of my lawyer, they gave me a tissue, told me that my fear and emotions were normal and asked if I needed a moment or to reschedule, making me feel supported and understood.

Trust

Trust is vital to a strong lawyer-client relationship, particularly with a survivor of trauma. Survivors had these suggestions for building trust based on their experiences with lawyers:

- Recognize that trust takes time. A client's initial wariness is their way of protecting themselves. Review confidentiality and privilege regularly to address any fears.
- Ask your client how they're doing. Demonstrate your interest by making eye contact and asking follow up questions.
- Use simple language and explain any legal words.
- Be upfront and clear about timelines and fees/legal aid certificate limitations.
- Trauma can affect one's self-esteem and make it difficult to ask for help. If you notice your client is experiencing a barrier in accessing legal services (i.e. language, physical or mental disabilities, child care), address it immediately and ask what you can do to help make it easier for them to communicate and meet with you.

My amazing lawyer provided me with a clear, simple summary of my options and gave me time and space to ask questions.

Empowerment

Clients want to be involved in their cases but inherent in the lawyer-client relationship is a power imbalance. This dynamic can be intimidating to clients who have experienced violence and have been made to feel like they have no power. With effective communication and trust, you can empower your clients to regain control in their lives. Consider these suggestions:

I was more afraid of my lawyer than my abuser; my abuser was angry but my lawyer was angry **and** powerful.

- Be conscious of your client's social status, vulnerabilities and your position in relation to theirs. Think about how their identity and experiences may affect the way they see the world and their interactions with you.
- When a client does not want to discuss something, respect that wish. If the information is essential, explain this to the client and ask how you could make it easier for them to discuss the topic (i.e. having a support person, scheduling another meeting, taking a break, having an interpreter).
- Let your client set the priorities for their file. Ask what the most important outcome(s) is and provide them with their options. Work together to achieve the desired result.
- If a client identifies something as important to them, do not dismiss it even if you do not understand its significance. Consider it and ask questions to understand its importance.

Safety is the continuous thread throughout representation of a trauma-affected person who has experienced violence. Talk to your client about their safety concerns and refer them to an agency who does detailed safety planning - the Assaulted Women's Helpline is a great place to start - 1-866-863-0511. Some general physical safety tips include:

- Be conscious of who could have access to their communications (i.e. email, voicemail, hard copies of documents).
- Consider their (and your) physical safety in arranging client meetings and court appearances.
- Be aware that providing any sensitive information, including your client's address or location could be a safety risk. Determine what must be provided and what can be withheld. Seek a way to shield your client's location or contact information within the law. When such information is disclosed, explain this to your client and discuss any concerns they may have.

Physical Safety

Communication

Trauma can affect the way a person communicates. It can cause memory loss and confusion. Some clients may avoid talking about anything that reminds them of their trauma. Additionally, a client affected by trauma can have trouble maintaining regular contact and following directions. In order to avoid a lawyer-client relationship breakdown, consider these tips:

- Instructions may need to be repeated more than once.
- Encourage note-taking or offer to write instructions.
- Lists can be helpful (i.e. list of documents to be gathered).
- Regularly recap what has been accomplished and what is still in progress.
- Explain the importance of maintaining contact. Ask the client how you can make it easier for them to stay in touch and the best form of communication for them.
- Tell your client the best way to reach you and how and when you will respond to them. Manage their expectations regarding your ability to get back to them.
- A support person can be useful for both you and your client. They can take notes, remember next steps for the client and remind clients of your conversation.
- When possible, provide ample notice when you request documents from your client or when there is an upcoming court date.

When I didn't remember something, my lawyer would say "We've been over this already", making me feel like a fool.

Some offices may be unsettling or triggering for clients who have experienced trauma. Your staff's interactions with clients can also contribute to their healing or their trauma. When meeting with a client, ask if there is anything you can do to make them feel more at ease. Consider these tips:

- Be mindful of your office layout. For example, a client may not feel safe with their back to the door or having the door closed.
- A cluttered workspace or constantly ringing phone may be distracting or overwhelming for clients who are living with trauma. A clear desk and a forwarded phone may allow a client to focus and know that you are present with only their file at that moment.
- If appropriate, offer to meet your client somewhere they feel safe and is convenient to both of you (i.e. a women's services agency).
- Share this tip sheet with your support staff and ensure that they use a trauma-informed approach when interacting with all clients.

My lawyer's phone rang the entire time I was in their office. I couldn't focus and left feeling unheard.

Offices Setting

Court

Going to court can be particularly difficult for people who have experienced gender-based violence. It may be the first time that they have seen the other party or have ever been in a courthouse. Here are some suggestions to help your client feel prepared and safe:

- Be considerate when preparing your client for cross-examination. Assure your client that you believe them but want them to be ready for the opposing party's questions.
- Ask your client how they can be strong on the stand. Encourage them to discuss with their supports some techniques to focus their strength while testifying.
- Explain what will happen in court. While you cannot anticipate every possible situation, prepare your client for the realities of the court system (i.e. delays, recesses, other matters, a new/different judge).
- Have a plan for meeting your client on the day of court so that they are not waiting outside of the courtroom with the opposing party.
- Be aware of intimidating behaviour from the other party. Check in with your client about any concerns throughout the appearance. Suggest to your client that they check-in with a support person before and/or after court.

Vicarious trauma affects professionals, including lawyers, who work with people who have experienced traumatic events. It is the cumulative result of being regularly exposed to first-hand accounts of trauma. It can be compounded by the expectations that a lawyer must react to such stories with a straight face and that they are able to alleviate their client's trauma. Symptoms can include:

- Avoiding certain types of files or clients
- Emotional numbness
- Cynicism or hopelessness
- Work-related nightmares
- Social withdrawal
- Increased absenteeism

Vicarious trauma can affect your lawyer-client relationship as well as your practice in general. There are ways to address vicarious trauma. Debriefing with colleagues, a trusted friend or a professional counsellor is a great start. As a member of LSUC, you can access the Member Assistance Program, a confidential service designed to help legal professionals achieve their health and wellness goals. Register online: <http://www.myassistplan.com>

RESOURCES FOR YOU AND YOUR CLIENT

- **Community Legal Education Ontario (CLEO)** - clear legal information to help people understand and exercise their legal rights - <https://www.cleo.on.ca/en>
- **Family Law Education for Women (FLEW)** - Plain language legal information on women's rights under Ontario family law - EN: <http://onefamilylaw.ca/> FR: <http://undroitdefamille.ca/>
- **Luke's Place** - Family law support and guidance for abused women and their children - <https://lukesplace.ca/>
- **Ontario Women's Justice Network** - Accessible information for survivors of violence and their supporters to better understand legal rights - owjn.org
- **Steps to Justice** - Step-by-step information about legal problems - <https://stepstojustice.ca/>
- **Your Legal Rights** - General legal information for Ontarians - <http://yourlegallrights.on.ca/>

DID YOU KNOW?

- **A tenant who is a victim of sexual and domestic violence can end their tenancy in 28 days** if they believe they or a child living with them may be harmed or injured if they don't leave the unit. They can give this notice any time during their tenancy. (See sections 47.1, 47.2 and 47.3 of the *Residential Tenancies Act*)
- **Domestic or sexual violence leave is a job-protected leave of absence.** It provides 10 days and up to 15 weeks in a calendar year of time off to be taken for specific purposes when an employee or an employee's child has experienced or been threatened with domestic or sexual violence. The first five days of leave taken in a calendar year are paid, and the rest are unpaid. (See section 49.7 of the *Employment Standards Act*)

General Ontario-Wide Referrals

Local shelter - www.sheltersafe.ca

Ontario Victim Support Line - **1-888-579-2888**

Ontario Community and Social Services Helpline - **211**

Emergencies only - **911**

For 24 hour assistance:

Assaulted Women's Helpline (EN) - **1-866-863-0511**

Fem'Aide (FR) - **1-877-336-2433**

Kids Help Phone - **1-800-668-6868**

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And an invaluable group of survivors of gender-based violence.