

Trauma-Informed Legal Advocacy: Practice Scenarios Series

The Trauma-Informed Legal Advocacy (TILA) Project is designed to offer guidance to legal advocates and lawyers on applying trauma-informed principles to doing legal advocacy with survivors of domestic violence.

This document is part of a series: *Trauma-Informed Legal Advocacy (TILA): Practice Scenarios Series*.¹ Within each scenario in this series, we practice a two-step analysis of (1) what is happening from the perspective of the person we are working with, and (2) what strategies we can try to best support or represent them.

Scenario: Emotional Safety Planning for Court

During a court proceeding, the person you are working with gets anxious, becomes very angry, or starts to slow their speech and looks like they are “checking out.”

Step 1. What happened from their perspective?²

In Scenario 2, we explained traumatic triggers in general. Specific to the court environment, traumatic reminders come in many forms. This may be the first time the survivor has seen the person who abused them in a long time, and they may be triggered by being in the same room as their abuser, by a particular facial expression, a seemingly benign comment, the color of their abuser’s clothes, or the way their abuser smells. Encountering such reminders may cause a survivor to feel uneasy, afraid, or terrified. At that moment, the survivor may re-experience what they felt when they were initially traumatized, as if it is happening in this very moment. Also keep in mind that the abuser may be intentionally doing things or using the court process itself (e.g., filing motions unnecessarily for the purpose of creating opportunities for contact) in order to try and make the survivor feel uneasy, afraid, or terrified.

It is also helpful to remember that, generally speaking, the intent of perpetrators of domestic violence is to control what the survivor says, thinks, feels, and does. Even

¹ The *TILA: Practice Scenarios Series* was created by Rachel White-Domain, JD, NCDVTMH. Find more TILA resources on our the NCDVTMH website:

<http://www.nationalcenterdvtraumamh.org/trainingta/trauma-informed-legal-advocacy-tila-project/>

² This section is taken from NCDVTMH’s *Preparing for Court Proceedings with Survivors of Domestic Violence: Tips for Civil Lawyers and Legal Advocates* (2013) available at www.nationalcenterdvtraumamh.org, which was co-produced with Olga Trujillo, JD.

though confronting their abuser publicly may in the long run be empowering to a survivor, the contentious nature of the legal process requires them to participate in a very public challenge of their partner and often to tell others what has happened—these actions being in stark contrast to the usual dynamics of their relationship. This public confrontation may be intimidating to the survivor, particularly when standing up for themselves in the past led to retaliation. It may also trigger memories of previously attempted challenges that ended traumatically.

There may be other things that are affecting how a survivor participates in court proceedings. If intimidation by an abuser has been ongoing throughout the court proceedings, they may be experiencing the direct effects, such as increased anxiety, sleep deprivation, and exhaustion.

In addition, many people and their communities (e.g., communities of color, LGBTQI communities) have been and continue to be targeted and deeply affected by legal and administrative systems, such as criminal justice, immigration, and child protective services systems. For these reasons, distrust of the system may be another significant factor for the person you are working with.

Step 2. How could you have prepared differently?³

You can take steps to help someone emotionally prepare for court in advance:

1. *Offer a virtual tour.* There is often not enough time to visit a courtroom in advance. But you can always take a virtual tour. Move through the logistical and spatial details of attending court, including where both parties will wait before court opens, where they will take breaks, who will be in the courtroom, and the location of restrooms. There is a balance here of giving someone enough information to help them know what to expect and giving them too much information, which could potentially overwhelm them. Let them guide you. If you are working with someone at a courthouse, you can take a virtual tour of the courtroom itself.
2. *Enlist supporters.* Encourage the person you are working with to bring someone to court with them if they can. If there is no family member or friend who can make it, you can ask about people they may know through a support group, social activity, or church group. If no one is available to attend in person, friends or family can show that they are with someone in spirit, such as by giving notes with messages of support or trinkets that can be carried in the pocket. If you are working with someone with very limited support, they may want to find a peer support hotline. You can help them find

³ This section is also taken from NCDVTMH's Preparing for Court Proceedings tip sheet.

one using our resource: [Locating Mental Health and Substance Abuse Supports for Survivors: A Reference Sheet for Domestic Violence Advocates](#).

3. *Suggest making a "night before" plan.* Not sleeping and not eating can have an impact on our ability to manage our emotions, but when we are anxious about something we may have a hard time doing both. Acknowledging to someone that this is often the case can help them to decide how they want to prepare.
4. *Offer to help make a "what if" plan.* This means asking the person you are working with whether they think anything about the court proceedings might be particularly difficult or triggered for them and making a plan for how you will respond. Encourage the person to practice self-calming techniques prior to the day of court so that they become automatic and easier to access when stress makes it hard to think. We might not always know how an experience will affect us. And even if we have some idea, it could be hard to talk about. Always follow the lead of the person you are working with to see how much they want to plan with you.

Even if you haven't made a "what if" plan, it can help to ask the court for a recess when the survivor feels they need one or when you notice them experiencing a trauma response. While on break, validate their feelings. Acknowledge that what's happening may be very upsetting and that they are doing a great job. Sometimes just silently being with someone for a few minutes can help them to calm themselves and prepare to continue.

If a survivor's answers to questions are slow and incomplete, this may be a sign of dissociation usually brought on by intense fear or reliving of a particular attack or experience. Once in recess, support them in re-grounding themselves. As described in Scenario 2, you can say things to help them feel safe and ground themselves in the present. Easy ways to ground someone in the present include helping them notice their breath, their physical presence in the environment, or physical things in the environment. You might also acknowledge what happened. You might say, for example, "Their attorney asked you a question intended to scare you. You did get scared, you 'went away,' and nothing bad happened." If you can't take a recess, you may be able to offer a glass of water or do something else that will bring someone's attention to the present.

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