



Boston Office

115 Broad Street, Floor 3
Boston, MA 02110
p. 617.399.6720
f. 617.399.6722

Portland Office

520 SW Yamhill, Suite 200
Portland, OR 97204
p. 503.274.5477
f. 503.295-6679

www.victimrights.org

ISSUE SPOTTING CHECKLIST

This checklist is intended to assist with a preliminary client interview. You should use this list in conjunction with the Victim Rights Law Center's national Manual, *Beyond the Criminal Justice System: Using the Law to Help Restore the Lives of Sexual Assault Victims* (A Practical Guide for Attorneys and Advocates), Jessica E. Mindlin and Susan H. Vickers, Eds.

Note: *The issues highlighted below must be re-assessed regularly during the course of representation as the client's circumstances change.*

■ Physical Safety

- Is your client afraid for her physical safety? Has the assailant made any threats of retaliation if she reports the crime?
- If yes, refer client to an experienced sexual assault or domestic violence advocate for comprehensive safety planning.
- If yes, assess viability of a protective order(s) to enhance safety.

■ Privacy Concerns

- Inform client of her basic privacy rights. See *Privacy Chapter*.
- Assess whether your client has privacy concerns regarding general community exposure or disclosure to specific persons.
-

■ Other Needs

- Financial Compensation: *Are there costs associated with the assault?*
- Employment Security: *Is her job performance being impacted by the assault?*
- Education Stability: *Is her schooling being impacted by the assault?*
- Housing Security: *Is her housing safe following the assault?*
- Immigration Status: *Does she have immigration concerns?*
- Criminal Justice: *Does she have questions about the CJS?*
- Third Party Civil Liability: *Is there possible third party liability?*

PRELIMINARY EVIDENCE CHECKLIST

This checklist will help with a preliminary evidence assessment. *It is not exhaustive.*

- **VICTIM STATEMENT**
 - Specific details about the assault
 - Specific threats by the assailant
 - Account of victim's ongoing fear for physical safety
 - Description of injuries; names of possible witnesses, including medical providers
 - Description of effect on life and well-being
 - Elements of assault that the victim is concerned about revealing*
- **Authorities in receipt of a Victim Statement(s)**
 - Law Enforcement Reports (District Attorney, Police, Campus Security)
 - Report to Civil Authority (e.g., Housing, Education, Employer)
 - Protective Order Complaint/Affidavit
 - Are there multiple statements? Are they consistent?
- **Assailant Statement(s)**
 - Law Enforcement Reports (District Attorney, Police, Campus Security)
 - Statement for Civil Authority (e.g., Housing, Education, Employer)
- **Potential Witnesses**
 - Fresh complaints (Witnesses the victim first told about the assault)
 - Witnesses who saw/spoke to the victim before/after assault
 - Witnesses who saw/spoke to assailant before/after assault
 - Medical or Forensic Rape Kit Examiner
 - Other important potential witnesses (E.g., those at "the party.")
- **Physical Evidence**
 - Medical Records
 - Rape Kit
 - Toxicology analysis
 - Pictures
 - Scratches
 - Bruises
 - Other Physical Evidence

PRIVACY CHECKLIST

- **What specific privacy concerns does the client have?**
 - General Community Knowledge: Family, School, Work, Housing
 - Mental Health Care & Counseling
 - Rape Crisis Counseling
 - Medical Records
 - Past Sexual Abuse
 - Past or Present Substance Abuse
 - HIV Testing
 - Privacy of Name, Phone Number, Address, Employment, School
- **What disclosures have already been made? To whom?**
 - Who, What and When?*
 - In writing or verbal?
- **Inform victim and her family about the victim's privacy rights.**
 - General Privacy Rights (School, Employment, Housing)
 - Privacy Rights with regard to Criminal Justice System
 - Testimonial Privileges
 - Other Statutory Protections
- **Inform third parties/providers of victim's privacy rights as appropriate.**
- **Assess victim's privacy concerns with respect to the criminal justice system.**

PROTECTIVE ORDER CHECKLIST

- **What are the victim's specific safety concerns?**
 - Has the victim been referred to an experienced sexual assault advocate for comprehensive safety planning?
- **What type of relationship did the victim have with the assailant?**
 - Boyfriend
 - Date
 - Roommate
 - Friend
 - Acquaintance
 - Other
- **What type of protective order may the victim qualify for?**
 - C. 209A (Household, Domestic or Significant Dating Relationship)
 - Civil Injunctive Protective Order (Arm's Length Types of Relationships)
 - Criminal-Based Stay Away Order
 - Housing-Based Order
 - Campus-Based Order
- **Will the Protective Order aid, interfere or conflict with any other remedies?**
 - Criminal Justice Prosecution
 - Employment Remedies
 - University Disciplinary Process
 - Housing Remedies
 - Civil Tort Liability
- **Limitations of Cross Examination at ten-day hearing**
 - Privacy rights
 - Motion in limine*
 - Scope of hearing

VICTIM COMPENSATION CHECKLIST

Remember, victims can qualify now for compensation for losses they may suffer in the future.

- **Assessing Victim's Needs:**
 - Lost Wages
 - Medical Bills
 - Counseling Bills
 - Lost homemaker services
 - Dental Care
- **Has the victim made a report to law enforcement?**
 - Has the victim made a report to an alternative qualifying agency or Court?
 - Local or Campus Police
 - Chapter 209A Order
 - Report to Housing Authority
- **Check statute of limitations issues and timing of application:**
 - Is it within three years of the assault?
 - Does the victim qualify for "Good Cause" exception to reporting requirement?
- **Victim's Application:**
 - Date of the assault
 - Names of health care providers seen
 - Description of injuries
 - Documentation of Expenses

EMPLOYMENT CHECKLIST

- **Is the assault related to work?**
 - Is the assailant a supervisor, co-worker or an employee?
 - Did the assault occur at work or a work-sponsored function?
 - Is the workplace unionized?
- **What are the Victim's work-related needs?**
 - Safety
 - Privacy
 - Employer Based Benefits
 - Time Off
 - ✓ For Medical Help, For Court Appearances, For Other
 - Schedule Changes
 - Job Security
 - Other
- **What benefits is the victim entitled to under State and Federal Law?**
 - Unemployment Insurance Benefits
 - Americans with Disabilities Act
 - Workers' Compensation
 - Family and Medical Leave Act
 - Victims' Compensation
 - Title VII Protection from Discrimination
- **What benefits may be provided by the employer?**
 - Unpaid/Paid Medical Leave
 - Vacation Time
 - Sick Time
 - Short-term Disability
 - Long-term Disability
- **Does the case intersect with the criminal justice system or a protective order?**
 - Is there an active criminal investigation?
 - Is there a protective order in place?

EDUCATION CHECKLIST

- **Assessing Client Needs:**
 - Safety
 - Employment
 - Privacy
 - Tuition
 - Disciplinary Process
 - Financial Aid
 - Classes
 - Housing
 - Sports
 - What are victim's "justice goals"?
 - Do on or off-campus remedies best meet those goals?
- **Is the perpetrator a fellow classmate?**
 - What specific safety concerns does victim have?
 - What specific privacy concerns does victim have?
 - What specific academic accommodations does the victim need?
- **Does the case intersect with the criminal justice system?**
 - Has a police report been made to campus or local police?
 - Is the victim interested in pursuing criminal charges?
 - Do school policies allow simultaneous police and school complaints?
- **On-Campus Disciplinary Process: (Get a copy of the student handbook)**
 - Are the procedures for student complaints clear?
 - What confidentiality rules and policies apply?
 - What investigation rules apply? Are there any?
 - Is there a faculty or staff advisor working with the victim?
 - Who is the supervisor or contact person for the disciplinary process?
 - What are the limitations on attorney involvement?
- **Are there any legal issues with regard to:**
 - Jeanne Clery Disclosure of Campus Security Act
 - The Family Education Rights and Privacy Act
 - Title IX
 - Third Party Civil Liability

HOUSING CHECKLIST

- **Assessing Housing Needs:**
 - Is the victim a non-U.S. citizen?
 - Did the assault take place in or near the victim's residence?
 - Does the assailant live in or near the victim's residence?
 - Does the assailant know where the victim lives?
 - Does the victim live in public or private housing?
 - If possible, does she seek increased security at her existing residence? To move?
 - If possible, does she seek to have the perpetrator removed?
- **Does she now require access to or a transfer within public housing?**
 - Does she qualify for priority status?
 - What is the liability and duty of the Housing Authority?
- **Does she need assistance with a private housing agent?**
 - Liability of Private Landlords
 - Terminating a Tenancy or Lease
 - Changing Provisions in a Lease
 - Eviction in Private Housing
- **What are the possible non-legal remedies?**
 - Emergency Housing Shelters
 - Family or Friends

IMMIGRATION CHECKLIST

Basic Dos and Don'ts

- Reassure client about attorney-client confidentiality
- Get supervision by an experienced immigration attorney
- Get competent and culturally sensitive translation services
- Never tell a non-citizen to go to the Department of Homeland Security (DHS).
- Encourage non-citizen victims to talk to an immigration expert before leaving the United States.
- If your client has received notice of a hearing with the immigration Court or interview with DHS, refer her to an immigration attorney or advocate immediately. Failure to attend a hearing or interview may result in immediate arrest and deportation.
- **What is your client's present immigration status?**
 - Is your client in immigration proceedings with DHS now?
 - What immigration documents does your client have?
 - Did your client ever have documents?
 - Is your client undocumented?
- **What is the assailant's immigration status?**
 - Is the perpetrator part of the victim's community?
- **Has your client reported to the police?**
 - Try to find out what the department's reporting policy is *before* disclosing
 - Discuss immigration protections with law enforcement
- **Does your client have any interest in applying for a U-Visa, T-visa, or other immigration remedy?**
- **Does your client have employment issues related to the assault?**
- **Will accessing public benefits in any way harm your client's immigration status?**

CRIMINAL JUSTICE CHECKLIST

- **ADDRESS VICTIMS' QUESTIONS ABOUT THE CRIMINAL PROCESS**
 - If I report, do I lose control of whether the case is prosecuted?
 - Can I file a police report and then not go any further with prosecution?
 - Will my name be published in court documents or the newspaper?
 - How long will the criminal process take?
 - How likely is a criminal conviction?
- **Address Physical Safety**
 - Does your client have concerns for her physical safety?
 - Refer her to a counselor for comprehensive safety planning
- **Assess Privacy Concerns**
 - Does your client have specific privacy concerns?
 - Past sexual abuse, past or present mental health status
 - Past substance abuse
 - Inform client of privacy rights before reporting to law enforcement
 - Inform all parties in writing of victim's desire to raise any privileges
- **Prepare Victims for Interviews with Law Enforcement** (*See in depth discussion in the Criminal Chapter.*)
 - Victims should be advised:** that issues regarding their past or present physical or mental health, substance abuse, or past sexual abuse need not be disclosed in these interviews unless directly relevant to the assault.
 - Victims should be advised:** that any information they divulge to police, victim witness advocates, or prosecutors will be disclosed to the defense if it is potentially exculpatory.
 - Victims should be advised:** to describe all relevant *details of the assault* as truthfully as possible.
- **Assess Options if Prosecutor Does Not Seek an Indictment**
- **Assess Options if Prosecutor Proceeds Without Victim's Consent**