

Trauma and TPRs



Definition

- Very difficult or unpleasant experience that causes someone to have mental or emotional problems usually for a long time
- Disordered psychic or behavioral state resulting from severe mental or emotional stress or physical injury
- Deeply distressing or disturbing experience

(Trauma to one person may not be a trauma to another)

(Some people can cope with the trauma and move forward quickly. Others though, may not be able to cope.)

- It Is Real

Causes of Trauma For TPR Parents



- **Loss/Removal of children**
- **Denial/Rejection/Abandoned by family and friends**
- **DV – parent is victim**
- **Childhood experiences**
- **Treatment by system**
 - OCM, attorney, judge, court condition
- **Isolation**
 - fighting all alone, guilt, shame, failure, no one listening, foster parent neglect/abuse/avoidance
- **Emotional/physical abuse - DV – not their fault, parents victims – used against them (death of a child or dv victim)**
- **Others...**

Effects of Trauma



- Physical appearance
- Medical issues
- Loss of sleep
- Depression
- Self-neglect
- Stop mental health treatment/taking medication
- Homeless, transient
- Substance abuse
- Defensive
- Others...

Try to Avoid Re-Traumatizing/Traumatic Reminders



- **Definition of Re-traumatizing**
 - A relapse into a state of trauma, triggered by some subsequent event

- **A traumatic reminder**
 - person, situation, sensation, feeling or thing that reminds a person of a traumatic event. When faced with reminders the person may re-experience the intense and disturbing feelings tied to the original trauma

What to do With the Information You Receive From Client



- Go slow and easy
- Avoid getting to the bad details before establishing a rapport
- Control your emotions
- Encourage them to seek help – don't take on too much
- Remind court and other parties
- Must still prepare for them for trial...show them the picture, videos, audios...
- Others...



Questions??



Building and Maintaining a Relationship and Contact with the TPR Client

Building and Maintaining a Relationship



The case is about the CLIENT!!

Not... Lawyer

Judge

Prosecuting Attorney

Witnesses

Family Members

Building and Maintaining a Relationship



- **Client Centered**
- Flexible, yet directed and guided – be prepared to adapt to the client's style of communication
- Meet or contact where it is convenient for client – courthouse; office; library; text; email
- Think about barriers – transportation, telephone

Building and Maintaining a Relationship



Goals

1. Build Trust – Confidence and Rapport
2. Gather Relevant Information From Client
3. Communicate Relevant Information To Client

1. Build Trust – Confidence and Rapport



- **Explain your Role and Obligations**
 - Discuss Attorney Client Privilege and Confidentiality
- **LISTEN, LISTEN , LISTEN**
 - Eye contact; be actively engaged, looping
- **Understand Client's perspective**
 - Their background and history with CJS will shape their initial approach to you. But demonstrate good boundaries and be confident
- **Show Concern, Empathy, Respect**
 - We ask our client's to share intimate and sensitive details of their lives.

1. Build Trust – Confidence and Rapport



- **Answer his/her Questions**
 - The client needs enough information to make the most informed decisions about their case. If you don't know the answer – research and consult
- **Tell the Client what you will do/have done**
 - Give client map/plan of what you will do
- **Timely response to Client**
 - If it takes you time to return calls, let the client know this, be realistic
 - SCR 20 preamble—“competent, prompt, and diligent”; maintain communication with the client...re: representation.

2. Gather Relevant Information From Client



What is relevant information?

2. Gather Relevant Information From Client



All information is relevant!!

2. Gather Relevant Information From Client



- **Get Client's STORY**
- **Use a client interview form**
- **Use this information to develop Trial Strategy**
 - A thorough client interview is the foundation and the preparation for most of the case from visitation to negotiation to motion prep, deposition, trial prep, investigation, trial and disposition

2. Gather Relevant Information From Client



- **Ask about Client's Goals**
 - And write them down
- **Obtain Social history of Client**
 - And write it down
 - Social history includes: education, family, employment, military, mental health; AODA, physical/sexual abuse; medical; medications; treatment history, hobbies, religion, childhood; friends; the list goes on!
- **Consider mediation**
 - Is this in your jurisdiction yet?

3. Communicate Relevant Information To Client



- **The Petition/The Grounds**
 - use Jury Instructions to assist you and give the client a copy
 - Do not assume client has read the petition
- **Case Process**
 - Two step process; the State's burden; potential witnesses
- **Legal Options**
 - Substitution; court vs. jury trial; involuntary vs. voluntary; stip to grounds; client testify
- **Remember - do not Judge, you Defend.**

Other Important Issues



- **Make sure the client has received all relevant court petitions/reports and review with client. Review in person**
 - Again, the importance of a thorough client interview includes making sure the client has read and understands the case against them. Do not assume the client has read anything.
- **Client's Criminal Record**
 - Use client interview form!
 - Checklist avoids surprises
- **Copy of Jury instructions**

Other Issues cont'd



- **Competency issues**—be aware of them and your obligation as counsel
- **Client perspective**
 - – Past experience with the CJS
 - – It is important to let the Client know that you are a different lawyer.

Importance of Knowing Your Audience



- Inform client about Judge and prosecutor and issue of substitution. Also advise what the jury pool may look like...
 - Example of TPR case
- Prepare the client for court and what to expect.
 - Little routines/quirks about court or the process that lawyers just get used to, clients may not even know exist. Discuss conversations with opposing parties in advance.

It's A Balance



- **Be Flexible**
- **Don't be afraid to ask a question of your client; encourage your client not to be afraid to ask YOU a question**
- **Don't assume that your client will just know what the case is about and the likely result**
- **Listen, Listen, Listen**

Discussion



- **Roadblocks to client communication**

- **Concerns about client communication**



Questions??