

# Removing Barriers for Survivors with Disabilities Seeking Protection Orders

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# Poll 1

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I have worked with/represented someone with a disability:

Yes

No

I don't know

# Why This Matters

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- 1 in 5 people in the United States has a disability.

<https://www.endabusepwd.org/publications/safe-americans-disabilities/>

- The FBI receives over 1 million domestic violence final protection orders from state courts yearly. This does *not* include all states or all counties within states.
- Around 20% of victims of intimate partner violence receive civil protection orders.

<https://iwpr.org/wp-content/uploads/2017/01/Protection-Orders-and-Survivors.pdf>

# Why This Matters, cont.

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- People with disabilities experience rates of domestic and sexual violence at between 3 and 7 times the rate of violence against people without disabilities.
- The 2010-2014 National Crime Victimization Survey found:
  - Intimate partners committed 14% of violence against people with disabilities
  - Other relatives committed 11%
  - Acquaintances or people the survivor knew well committed 40%

# Barriers to seeking help

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- People with disabilities are perceived as lacking credibility
  - Abusers will use the excuse that injury happened while attempting to provide care
  - Fear of people in their community finding out
  - Fear of losing custody of their children
  - Threats to their service animal, or actual harm caused
  - Fear of system involvement
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# Additional Barriers

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- Ableism
- Legalese
- Policies and procedures
- Forms

# The Protection Order Process

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# National Center on Protection Orders and Full Faith and Credit

The screenshot shows the website header for the Battered Women's Justice Project. The logo is on the left, followed by the text 'BATTERED WOMEN'S JUSTICE PROJECT'. To the right are links for 'News' and 'Contact Us', and a search bar labeled 'Site Search...'. Below the header is a navigation menu with 'HOME', 'ABOUT', 'OUR WORK', 'TRAINING', 'SERVICES', and 'RESOURCE CENTER'. The main content area features a link '< BACK TO SEARCH RESULTS' and the title 'Protection Orders and Working with People with Disabilities'.

**Resource Tags**

**Type**  
Tools & Guides

**Category**  
Protection Orders and Enforcement

**Related Work**

**Topic**  
Protection Orders

**Project**  
Protection Orders

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The *Protection Orders and Working with People with Disabilities* tip sheet is a tool that attorneys, advocates, and others can familiarize themselves with common types of disabilities, the unique barriers people with those disabilities may experience in the protection order office, and strategies for overcoming those barriers that attorneys and advocates can implement in their work. The tip sheet is designed to assist practitioners in foreseeing, recognizing, and eliminating barriers to justice in the protection order process for people with disabilities.

Protection Orders and Working with People with Disabilities

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Looking for resources or training?

CONTACT US TODAY

**E-NEWSLETTER**

Receive emails with resources, news and updates

SIGN UP NOW



# Scope of Tip Sheet

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## A. Cognitive Disabilities

- To include intellectual disabilities, developmental disabilities, Alzheimer's, traumatic brain injury, and others that impact cognition

## B. Mental Health Disabilities

## C. Physical Disabilities

# A note on TBI:

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Researchers found that more than four out of five Ohio women who had been physically abused by their partners had suffered a head injury.

*“Wherever [survivors of domestic violence are] presenting, we should recognize that that person before us could very well have a brain injury. **We should almost be assuming.**”*

<https://www.dispatch.com/news/20190701/brain-injuries-from-domestic-violence-often-undetected-study-finds?fbclid=IwAR1Qmc-Lg1GVoQw0xVSHTwmjNfdnc8ioStgF0sy-G5s17IMoCj4UiVQVYL0>

# Tip Sheet, cont.

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- I. Identification of Disability
- II. Relevance of Disability
- III. The Initial Meeting
- IV. Paperwork
- V. Interacting with the Clerk/Filing
- VI. Appearing in Court – Ex parte
- VII. Appearing in Court – Final
- VIII. Enforcement/Full Faith and Credit

# Poll 2

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As attorneys or advocates, how many of you have had to explain the protection order forms and what they are actually asking to your clients in various ways?

Always

Never

Sometimes

# Identification of Disability

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- Universal Screening Tool for intakes
- Forms in plain language
- Will anyone else be accompanying your client to court/hearings?
  - Confidentiality

# Identification, Cognitive

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- Ability to understand legal matters
- Legal guardian? If so, request documents
- May need assistance in providing clear explanations of events
- Clients may have:
  - Short attention span
  - Limited vocabulary
  - Difficulty answering questions
  - Trouble reading or writing, especially legalese

# Identification, Mental Health

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- Ability to understand legal matters
- Any concerns about recall ability?
- People with mental health disabilities may experience:
  - Confused thinking
  - Excessive fears
  - Lack of concentration
  - Delusions/hallucinations

# Identification, Physical

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- Do you need to modify your physical space?
- Any technological assistive devices needed?
- Don't assume no disability because you can't see it
- Ask about accommodation needs



# Relevance of Disability

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1. What role does disability play in the abuse, if any?
2. Could the disability be used against your client? If so, how?

# Scenario 1

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Your client is seeking a protection order against her spouse, who she claims has been physically and verbally abusive. Your state allows child custody to be determined in a protection order, and she wishes to seek custody of her three-year-old son. The abuse has created severe anxiety and depression. You anticipate the spouse will claim she is unfit to parent since she admits she can hardly get out of bed some days.

Is your client's disability relevant? Why or why not?

# The Initial Meeting - Cognitive

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- Set aside more time
- Legal forms in plain language, retainer, etc.
- Ask open ended questions
- Ask client to repeat information to ensure understanding
- Short, concrete sentences
- Limit distractions
- Define key terms in plain language

# Initial Meeting - Mental Health

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- Position yourself in least threatening manner
- Eye contact – use cues from client
- Attempt to understand the disability – research if necessary
- Understand how it impacts ability to recall, interact, etc.
- Ask them what they want to see happen

# Initial Meeting - Physical

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- Consider the accessibility in your office; can you still close your door if wheelchair used? Bathroom accessible?
- Can someone who is blind or has sight limitations read your documents?
- If adaptive technology used, are you trained in how to use it?
- Do not touch/pet service animals
- Mobility devices are an extension of the person

# Paperwork - Cognitive

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- Does ADA coordinator have official paperwork in plain language?
- Strategies for assisting with timeline
- Cheat sheet for important information
- Explain why certain questions are asked
- Avoid conclusory language (i.e. when was the last act of violence)

# Paperwork – Mental Health

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- Use multiple strategies for gathering information
- Consider whether information gathering could be retraumatizing, and use other ways
- Don't minimize their experiences or beliefs
- How can information gathering be methodical?

# Paperwork - Physical

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- Braille
- Screen reader
- Trained on assistive technology, and technology up to date
- Mechanism to sign documents if someone is blind (i.e. witness)
- Seek feedback on assistive devices



# Scenario 2

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You are an advocate working with someone wishing to file a protection order against a live-in partner. Your client has difficulty remembering timelines, and your state forms require a list in chronological order, starting with the most recent acts of violence, be included.

What is the best way for you to proceed and assist your client when they get the forms from the clerk?

# Interacting with the Clerk/Filing – Cognitive and Mental Health

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- Identify place to meet ahead of time
- Map of courthouse with safe space available
- Create list of what is needed from clerk
- Print forms in advance if available online
- Know how to request accommodations
- Have contact information for the ADA coordinator available at all times

# Interacting with Clerk – Physical

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- Ensure clerk's office is accessible – Stairs? Elevator?
- Consider how you would direct someone who is blind to the office
- Are there escorts at security you can direct client to?
- Contact information for ADA coordinator
- Arrive early to address any barriers (i.e. elevator out of service)

# Poll 3

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I have contacted my jurisdiction's ADA Coordinator in the past:

Yes

No

I don't know who the ADA Coordinator is

# What do survivors say?

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*“Just because I’m not making eye contact doesn’t mean I’m not telling the truth.”*

*“Now is not the time to give me next steps. I’m still trying to process what just happened. Ask me if I’m OK, if I need water, and then follow up with me later.”*

# What do survivors say? (2)

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*"Courts are not the safest place for us to be."*

*"A judge asked me, 'how do you know he's been following you?' as if I don't know."*

# Scenario 3

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You and your client are preparing for the final hearing for a two-year protection order for stalking. Your client has been diagnosed with Paranoid Personality Disorder, which her former partner is aware of and is expecting that he will use the diagnosis to cast doubt on, and defend, the stalking allegations.

What do you do?

# Appearing in Court – Ex Parte: Cognitive

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- Create pictorial guide of courtroom and process
- Explain roles of everyone in room
- Courtroom behavior and dress
- Anyone assisting client? Where will they sit and what will their role be?
- Address client directly, even if support person with them



# Appearing in Court – Ex Parte: Mental Health

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- Determine if client requires other supports
- Explain roles and process
- Courtroom behavior and dress
- Be ready to explain behaviors that court may need to understand to avoid misunderstanding
- Any additional advocates needed?
- Know process for requesting accommodations

# Appearing in Court – Ex Parte: Physical

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- Ensure courtroom is accessible
- If not, ask for necessary accommodations, including changing locations
- Have contact information for ADA coordinator readily available

# Appearing in Court – Final: Cognitive

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- Request extra time if needed
- Prepare plain language documents for client to follow along
- Consider having expert testify regarding the disability and how it does – or doesn't – affect the facts at issue
- Role play with client

# Appearing in Court – Final: Mental Health

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- Attempt to alleviate effects of mental health disability
- Request telephonic testimony if needed
- Attempt to stipulate certain facts
- Expert to testify regarding disability
- Preview courtroom
- Role play

# Appearing in Court – Final: Physical

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- Meet ahead of time to arrive to court together
- Ensure physical access in courtroom
- Alert judge in advance if issues, i.e. recording device on dais that client cannot access

# Scenario 4

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Your client has an intellectual disability that makes prolonged concentration difficult. He knows he will have to be attentive when testifying at his protection order hearing and you have prepped him for it. The opposing attorney, at the temporary hearing, has already suggested that your client doesn't need a protection order and isn't fearful in any way since he appears bored in court. Your client looks down to help him concentrate.

How do you handle this?

# Enforcement: Cognitive and Mental Health

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- Fully explain to client what they need to do to ensure enforcement
- Safety plan around possible violations in plain language
- Who to call if violation

# Enforcement: Physical

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- Consider having the order printed in braille so client has access to information in it at all times
- Provide the order electronically and in a format that can be read by a screen reader
- Safety plan around possible violations
- Inform the client of who to call if there is a violation



# Final thought

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Approach all clients through a strengths-based approach

# Questions?

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# Resources

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## How Safe are Americans with Disabilities?

<https://www.endabusepwd.org/publications/safe-americans-disabilities/>

## Protection Orders and Working with People with Disabilities

<https://www.bwjp.org/assets/protection-orders-and-working-with-people-with-disab.pdf>