



BATTERED WOMEN'S JUSTICE PROJECT
**National Center on Protection Orders
and Full Faith & Credit**

Vera Center on Victimization + Safety

Protection Orders and Working with People with Disabilities

Protection Orders and Working with People with Disabilities

*“The court has their burdens, but they need to understand we have ours too.”**

Navigating the protection order process is difficult even under the best of circumstances. For people with cognitive, mental health, or physical disabilities, the protection order process can be that much more daunting. The paperwork to request a protection order can present an obstacle for someone with a cognitive disability. The entire process can be triggering for someone with a mental health disability. Appearing in court and navigating the courthouse can present challenges for a person with a physical disability.

People with disabilities are more likely to be [victims of violence](#)ⁱ and therefore more likely to need a protection order. To provide effective representation in protection order cases, attorneys and advocates must identify and take into account any disability a client may have and the obstacles that the disability may cause. In addition to vigorous legal advocacy, it is the role of the attorney or advocate to help navigate or eliminate these obstacles. In order to do that, we need to be aware of what the burdens or obstacles exist for people living with disabilities. Practitioners need to foresee them, recognize them, and eliminate them.

This tip sheet is designed to assist practitioners in foreseeing, recognizing, and eliminating barriers to justice in the protection order process for people with disabilities.

A note on language accessibility and Deaf clients: This tip sheet intentionally does not include members of the Deaf community in its definition of “People with Disabilities.” Many people who are Deaf or hard hearing do not identify as disabled; rather, they communicate using different modes of communication, such as American Sign Language or other sign language. While they may experience barriers to justice, it is not based on “disability” but on cultural norms and expectations of the hearing community.

I. Identification of Disability

People with disabilities generally adapt to the challenges they face due to their disability. For that reason, they may not readily identify as having a disability (or may even actively hide it). A general first step is to identify if your client has a disability and whether it is relevant to your relationship with him or her.

A note on terms: Cognitive disability, as used here, is an umbrella term used to refer to intellectual disabilities, developmental disabilities, Alzheimer’s, traumatic brain injury, and other disabilities that impact cognition. We recognize that these are separate and distinct disabilities. For the purposes of this guide, since the necessary response and accommodations are similar for different types of cognitive disabilities, we chose to combine them into one category for ease of use.

Tips: Cognitive Disabilities	Tips: Mental Health Disabilities	Tips: Physical Disabilities
<ul style="list-style-type: none"> • Have a universal screening tool for your intake process; • Have forms in plain language (you may need to create these); • Have a question on your intake forms that helps to determine your clients’ ability to understand legal matters; • Determine if someone else be accompanying the client. If so, in what role? Are there 	<ul style="list-style-type: none"> • Have a universal screening tool for your intake process; • Have forms in plain language (you may need to create these); • Have a question on your intake forms that helps to determine your clients’ ability to understand legal matters; • Determine if someone else be accompanying the client. If so, in what role? Are there any 	<ul style="list-style-type: none"> • Have a universal screening tool for your intake process; • Have forms in plain language (you may need to create these); • Determine if someone else be accompanying the client. If so, in what role? Are there any confidentiality concerns?; • Determine if there any modifications you need to make to your physical space to increase access;

<p>confidentiality concerns?;</p> <ul style="list-style-type: none"> • Determine if the person has a legal guardian and request documentation; • Recognize that your client may have difficulty answering questions; • He/she may have a short attention span; • Your client may have a limited vocabulary; • They may have trouble reading or writing; • They may seem eager to please or easily persuaded; • They may need assistance in providing clear explanations of events; • Previous documentation of disability (IEP, disability determination, etc.) may be helpful; • Keep in mind that person with a cognitive disability often will not voluntarily give you this information and 	<p>confidentiality concerns?;</p> <ul style="list-style-type: none"> • Determine if your client has any concerns about their ability to recall events and provide dates; • Be flexible in your approach meeting clients' needs; they may shift and change throughout your representation; • People with mental health disabilities may experience some of the following: <ul style="list-style-type: none"> ○ Confused thinking ○ Prolonged depression (sadness or irritability) ○ Feelings of extreme highs and lows ○ Excessive fears, worries and anxieties ○ Lack of concentration or memory ○ Strong feelings of anger ○ Strange thoughts (delusions) ○ Seeing or hearing things that aren't 	<ul style="list-style-type: none"> • Determine if there any technological assistive devices needed for your meeting; • Do not assume that because a person looks like they do not have a physical disability that they do not have one. Invisible physical disabilities are common; • Ask about accommodation needs; • Make necessary changes.
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may even deny that they have a disability.	<p>there (hallucinations)</p> <ul style="list-style-type: none"> ○ Growing inability to cope with daily problems and activities ○ Suicidal thoughts. 	
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II. Relevance of Disability

If your client has a disability, the next step is to critically analyze the facts of the case to determine if and how the disability will be relevant. Review the general landscape of your case. Think about the following questions:

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

*“I might say right then and there that I understand what you’re saying, but ask me again in five minutes and I might not remember, and I’m lost.”**

III. The Initial Meeting

Tips: Cognitive Disabilities	Tips: Mental Health Disabilities	Tips: Physical Disabilities
<ul style="list-style-type: none"> • Set aside more time for the initial meeting; • Make sure your retainer and other ingredients are in plain language; • Introduce yourself and the role that you play; 	<ul style="list-style-type: none"> • Think about your positioning. Could anything about how or where you sit be intimidating or threatening? • Think about your eye contact. For some people with mental 	<ul style="list-style-type: none"> • Think about the accessibility of your office. What is your office set-up like? Are there stairs? Can a wheelchair comfortably fit in front of your desk and still close the door

<ul style="list-style-type: none"> • Ask open ended questions to ensure understanding; • Ask client to repeat the information in his or her own words; • Define key terms; • Use short, concrete, sentences. Avoid compound sentences and compound questions; • Repeat yourself, varying your language each time; • Limit distractions – find a quiet place to meet; • Include questions about autonomy - “what do you want to see happen?” - might be overarching comment. 	<p>health disabilities, eye contact can be seen as threatening. Use cues from the person to see what they feel comfortable with;</p> <ul style="list-style-type: none"> • Make sure you understand the nature of the disability and can speak clearly about it; • Understand how the disability can impact the client’s perceptions, ability to recount stories, and interactions with you; • Consider strategies to lessen the impact of telling difficult stories; • Include questions about autonomy - “what do you want to see happen?” - might be overarching comment. 	<p>for privacy? Where is the bathroom?;</p> <ul style="list-style-type: none"> • If there is another area to meet to accommodate physical or mobility limitations, make sure it is of the same standard as other office areas; • Ensure that you have a screen reader or a way to ensure that someone with sight limitations can read your documents; • If you are using adaptive technology, make sure you or someone in your office is trained to use it; • Recognize that a mobility device is an extension of the person; refrain from touching the device or leaning on it; • Service animals are working animals; please do not touch or pet them without asking.
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*“Now is not the time to give me next steps. I’m still trying to process what just happened. Ask me if I’m okay, if I need water, and the follow up with me later.”**

IV. Paperwork

Legal paperwork, such as applications for protective orders, are difficult to maneuver for any lay person and sometimes even attorneys. They can provide additional obstacles for a person with a disability. Courts rely heavily on paperwork, with some completely relying on what is written in the document to make decisions. This means it is vital that a person is able to adequately understand and complete the paperwork to move forward.

Tips: Cognitive Disabilities	Tips: Mental Health Disabilities	Tips: Physical Disabilities
<ul style="list-style-type: none"> • Ask the ADA coordinator if they have the paperwork in plain language; • Develop strategies for assisting your client with timelines (i.e. what was on TV when that happened? Was it light out or dark out? Was this before you ate dinner or after?); • Consider making a “cheat sheet” that reviews all important information; • Walk your client through the paperwork and 	<ul style="list-style-type: none"> • Have multiple strategies for gathering information, such as timelines and dates. (e.g. Was it dark or light? Was your television on? What was on? Was it before or after your birthday [make it relative to major events in their lives]. • Think about how to gather evidence, such as photos, without re-traumatizing someone; • Think about strategies to encourage 	<ul style="list-style-type: none"> • Have materials in Braille; • Have a screen reader or other assistive technology; • Make sure you or someone in your office is fully trained in any assistive technology; • Make sure your technology is up to date; • Have a mechanism in place for signing documents if someone is blind (i.e. a witness to witness the signature and

<p>explain why questions are asked/ important;</p> <ul style="list-style-type: none"> • Avoid using conclusory language (“when was the last act of violence” versus “when was the last time he hit you with a closed fist?”). 	<p>someone to think through traumatizing events and write them down in a methodical, organized way;</p> <ul style="list-style-type: none"> • Do not minimize their beliefs or experiences. 	<p>explanation of paperwork?)</p> <ul style="list-style-type: none"> • Ask your clients for feedback on any technology used and any changes needed for the future.
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V. Interacting with the Clerk/ Filing

If you are unable to attend the initial filing with your client, it is important that they understand how to maneuver through a potentially complex layout and process. It is important to prepare your client for finding the clerk’s office, filing the paperwork, and anything else they need to prepare.

Tips: Cognitive Disabilities	Tips: Mental Health Disabilities	Tips: Physical Disabilities
<ul style="list-style-type: none"> • Identify a good place to meet ahead of time; • Have forms available in plain language (you may have to create these); • Have a map of the courthouse available with safe spaces identified; • Consider creating a list and writing out exactly what is needed from the clerk; 	<ul style="list-style-type: none"> • Identify a good place to meet ahead of time; • Consider creating a list and writing out exactly what is needed from the clerk; • Have a map of the courthouse available with safe spaces identified; • Print forms in advance if available online; • Know how to request accommodations; 	<ul style="list-style-type: none"> • Make sure that the Clerk’s Office physically accessible. Are there stairs? Is there an elevator?; • Consider how you would direct a person who is blind to the office; • Determine if there are escorts at security you can direct your client to; • Determine if there is a natural place to meet up after security;

<ul style="list-style-type: none"> • Print forms in advance if available online; • Know how to request accommodations; • Have contact information for the ADA coordinator with you at all times. 	<ul style="list-style-type: none"> • Have contact information for the ADA coordinator with you at all times. 	<ul style="list-style-type: none"> • Have contact information for the ADA coordinator with you at all times; • Arrive to the courthouse in enough time to address any barriers, i.e. finding another elevator if the main one is out of service.
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*“Courts are not the safest place for us to be.”**

VI. Appearing in Court – Ex Parte (if an advocate and unrepresented)

A person with a disability needs to know what to expect, where to sit, what the process looks like, what questions he or she will need to answer, and how to stay safe throughout the process.

Tips: Cognitive Disabilities	Tips: Mental Health Disabilities	Tips: Physical Disabilities
<ul style="list-style-type: none"> • Think about creating a pictorial guide to the process and courtroom; • Develop materials in plain language; • Explain the roles of the people in the courtroom and outline the process; consider creating a pictorial guide; 	<ul style="list-style-type: none"> • Determine if there are other supports your client might need during the process; • Explain the roles of the people in the courtroom and outline the process; • Discuss appropriate courtroom behavior and dress; 	<ul style="list-style-type: none"> • Ensure that the courtroom is physically accessible. • If not, ask for necessary accommodations, including possibly changing locations.

<ul style="list-style-type: none"> • Discuss appropriate courtroom behavior and dress; • Determine if your client will have a support person with them. If so, where will they sit and what will their role be? Will they be assisting in explaining the process as it unfolds, during breaks, or only in an emotional support role; • Address the client directly, even if they have a supportive person with them explaining the process. 	<ul style="list-style-type: none"> • If needed, explain to the court the behaviors noted above to avoid any confusion or misinterpretation by the court. • If there are additional advocates available, consider requesting the assistance of one; • Know the process for requesting accommodations. 	
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*“A judge asked me, ‘How do you know he’s been following you?’ as if I don’t know. I know he’s there, but now I look paranoid.”**

*“Just seeing his car in the parking lot created so much anxiety.”**

VII. Appearing in Court – Final, “other issues”

You need to prepare your client with a disability about what the process looks like and what will happen. Additionally, you may need to notify the court of the disability if it will impact the proceedings. Be prepared to address the court’s possible negative perception of your client.

Tips: Cognitive Disabilities	Tips: Mental Health Disabilities	Tips: Physical Disabilities
<ul style="list-style-type: none"> • Request extra time for a hearing, if necessary; • Prepare client for testimony and how to address the court; • Create plain language documents for the client to follow along in the court proceeding; • Have an expert to testify regarding the intellectual disability and how it does – and does not – affect the facts at issue (i.e. might be relevant to their victimization; might not be relevant to issues of custody, property division); • Have an expert to testify regarding the domestic violence; • Have an expert to assist in custody; 	<ul style="list-style-type: none"> • Request mechanisms to attempt to alleviate or mitigate the effects of the mental health disability? I.e. If anxiety disorder, work with the client to allow her to wait elsewhere; • Request telephonic testimony if it would be helpful; • Attempt to stipulate to certain facts; • Have an expert to testify regarding any outside behavior related to the mental health disability, i.e. depression or substance abuse and custody issues; • Consider previewing the courtroom to prepare client for court; 	<ul style="list-style-type: none"> • Meet at a specific place that is easy to access and go to the courtroom together. • Ensure that the courtroom is physically accessible. • If your client cannot be recorded by testifying at ground-level, alert the judge’s clerk in advance and seek direction.

<ul style="list-style-type: none"> • Explain the roles of the people in the courtroom; • Consider previewing the courtroom to prepare client for court. Role play ahead of time. 	<ul style="list-style-type: none"> • Role play the testimony; • If needed, explain to the court the behaviors noted above to avoid any confusion or misinterpretation by the court. 	
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*“Just because I’m not making eye contact doesn’t mean I’m not telling the truth.”**

VIII. Enforcement/ Full Faith and Credit

Enforcement of any order hinges on an understanding of the order. Someone with a disability may not recognize a violation or feel they will not be believed if the court process was difficult for them. As with any person with a disability that has been abused, the person will remain at a heightened risk for abuse despite the protection order. For additional information and help on facilitating enforcement of a protection order, please contact the National Center on Protection Orders and Full Faith and Credit at 1-800-903-0111, prompt 2, or by email at ncffc@bwjp.org.

Tips: Cognitive Disabilities	Tips: Mental Health Disabilities	Tips: Physical Disabilities
<ul style="list-style-type: none"> • Fully explain what your client needs to do in order to ensure enforcement (i.e. do they need to carry the order with them?) 	<ul style="list-style-type: none"> • Safety plan with your client around possible violations. • Consider making a “cheat sheet” in plain language. 	<ul style="list-style-type: none"> • Consider having the order printed in braille to ensure that your client has exact knowledge of its contents at all times.

<p>and what their rights are.</p> <ul style="list-style-type: none"> • Safety plan with your client around possible violations. • Consider making a “cheat sheet” in plain language. • Inform the client who to call if there is a violation. 	<ul style="list-style-type: none"> • Inform the client who to call if there is a violation. 	<ul style="list-style-type: none"> • Provide the order electronically and in a format that can be read by a screen reader. • Safety plan with your client around possible violations. • Inform the client who to call if there is a violation.
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*All quotes found in this document were provided by litigants who had cognitive or mental health disabilities, and their express permission was obtained prior to including their words here.

Final tip for all advocates or attorneys working with people with disabilities:

Make every attempt to approach questions and interactions with clients from a strength-based perspective. For example, rather than asking a client about their “lack of ability” to remember, consider asking what strategies they have for memories and how you can assist. Rather than asking clients about what physical limitations they have, consider asking what societal barriers you can assist in removing for them.

This checklist was created by the Center on Victimization and Safety, Vera Institute of Justice supported by Grant No. 2016-TA-AX-K068 and the National Center on Protection Orders and Full Faith & Credit supported by Grant No. 2016-TA-AX-K052 as awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this document are those of the authors and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

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