



National Immigrant Justice Center

NIJC Pro Bono Seminar

Client Counseling and Affidavit Preparation

February 1, 2012

www.immigrantjustice.org



Welcome

Ashley Huebner,
National Immigrant Justice Center

About the National Immigrant Justice Center

- The National Immigrant Justice Center (NIJC), a program of Heartland Alliance for Human Needs & Human Rights, promotes human rights and access to justice for immigrants, refugees, and asylum seekers through legal services, policy reform, impact litigation, and public education.
- For more than 30 years, NIJC has been unique in blending individual client advocacy with broad-based systemic change.
- NIJC serves more than 8,000 immigrants annually with the support of a professional legal staff and a network of over 1,500 *pro bono* attorneys.
- NIJC's *pro bono* opportunities
 - asylum
 - special immigrant juvenile status
 - VAWA & U visas
- NIJC's *pro bono* programs
 - Conduct in-depth case screening, assessment and acceptance
 - Place cases with *pro bono* attorneys
 - Provide case management, attorney support and technical assistance



Client Counseling:

Preparing for Your Meeting

Ashley Huebner,

National Immigrant Justice Center

Cultural Barriers Facing Immigrants

- Language limitations
- Extreme isolation
- Cultural ideas of family shame and honor
- Close-knit communities
- Role of religion

Best Practices: Getting Started

- Consider gender dynamics of the legal team
- Consider meeting location
- Ensure client is physically comfortable
- Have kleenex and water available
- Plan to only meet two-three hours at a time

Best Practices: Interviewing

- Begin by explaining what you need to cover in the meeting
- Tell your client to let you know if she needs to take a break
- Built rapport before getting into details
- Stress confidentiality
- Maintain eye contact and turn off distractions

Best Practices: Interviewing

- Review NIJC intake notes, but start interviewing from scratch
- If working with an interpreter, make sure she understands role
 - (see NIJC's "How to Work with an Interpreter")
- Establish your role as the attorney
 - You are not a therapist
 - You are not a social worker

Best Practices: Interviewing

- **Don't ask**: Were you ever persecuted/harmed/tortured?

Ask: Were you ever threatened, told that your family would be hurt, interrogated, questioned, harassed, called names, punched, kicked, hit, forced to do something you did not want to know, made to feel unsafe or scared etc.?

- **Don't ask**: Were you ever raped?

Ask: Were you ever forced to do anything sexually against your will?



Affidavit Preparation

Keren Zwick,
National Immigrant Justice Center

First Steps

- Involve the client: ask the client to prepare their own statement
- Plan to prepare numerous drafts and edit the affidavit up until the filing deadline
- Don't plan to get through the whole story in one meeting.

Detail

- Detail is crucial to establish credibility
- Get details on every aspect of the story
 - Who/what/where/when/why/how
 - Be clear about how your client knows non-first person information
- But – balance detail with client consistency
- If you think something sounds implausible or unclear, so will the adjudicator.

Examples:

1. "His abuse of me – physical, verbal, and mental – continued until the day I came to the United States. He told me that I had to do whatever he said and that I was his woman and did not have any rights."

This paragraph needs many more details about the type of abuse inflicted on the client, how often the abuse occurred, examples of specific incidents, whether she needed medical treatment, whether she reported the abuse to anyone, whether anyone else knew about the abuse etc.

Examples:

1. "Two months after the military beat my children and ransacked our home, I traveled alone to Benin. I often traveled to Benin to sell items and to purchase clothing and other things for my family. I was able to earn money for my family through the items I sold and save money because clothing is cheaper in Benin than in the Congo."
 - The adjudicator will likely wonder why the client was willing to leave her children behind and travel outside the country shortly after they were attacked by the military.
 - The adjudicator will also likely wonder how your client was able to exist and re-enter the Congo without a problem if the military was targeting her.
 - Make sure her passport stamps match up with the dates listed in the affidavit.

Language & Tone

- Avoid legalese, included “persecution,” “on account of,” “social group,” “political opinion.”

Ex. “I am afraid that if I return to Somali, I will be persecuted because I belong to the social group of Hawiye men.”

- Always define torture and make sure the word choice doesn’t exaggerate the harm suffered/feared.

Ex. “While I was in prison, the security officers tortured me every day.”

- What does this mean? What did the “torture” involve?

Language & Tone

- Keep the story clear and grammatically correct, but maintain your client's voice

- Emotion adds credibility

Ex. "While I was in hiding, the Congolese military came to my home, assaulted my mother and imprisoned my brother because they would reveal my location. My brother remains in prison today."

- What does your client think about this? How does this make your client feel?

Structure & Form

- Timeline
- Use headings to organize the story:
- Cover the asylum elements

1. My name is Client X. I am a citizen of the Republic of the Congo. This is my affidavit in support of my application for protection in the United States.
2. I am applying for asylum because the Congolese government beat and tortured me in the past and I am afraid that they will continue to beat, torture or try to kill me if I return. The government wants to harm me because they believe I oppose the government and support a rebel group.

Background

3. I was born on December 2, 1982 in Brazzaville. I stayed in Brazzaville until I finished high school and then moved to Pointe Noire to attend university. Although there were many problems in my country when I was growing up, my childhood was a happy one.

My First Problems with the Congolese Government

3. While I was attending university, I began participating in the political opposition party called Cont. →

Cont...

My Fear of Returning to the Republic of the Congo

24. The Congolese government threatened to kill me if I continued participating in politics. Since I left, they have imprisoned many other members of my party and they continue to threaten my family about my whereabouts.

24. When I spoke with my mother last month, she told me that security officers continue to come to my home about once a month to ask where I am. They tell my mother that they know I still support the rebels and they threaten to arrest her if she does not tell them where I am. I feel terrible that my family is suffering because of me, but I know if I return, my life will be in danger.

24. If I return to the Republic of the Congo, there is nowhere I could be safe. The government has spies everywhere and could find me wherever I go, especially in the cities. In addition, word spreads quickly when a "stranger" appears in a Congolese town or village. If I tried to hide in a different town or village, everyone would soon know I was there.

Structure & Form

- The affidavit must include your client's original signature.
- If your client cannot understand English, you must include a signed certificate of translation, certifying that the affidavit was read or translated into the client's native language (see NIJC appendix for sample).
- Have the affidavit notarized if possible.

Finalizing the Affidavit

- Always be sure to read the full affidavit to your client (or have her read it herself if possible) to make sure all the details are correct before filing the affidavit with the Asylum Office or Court.
- Remind your client of the importance of accuracy and consistency
- Consider providing a copy to your client, but remind her not to memorize it.

Sample Affidavits

- Sample affidavits (and other sample documents) can be found on NIJC's website at <http://immigrantjustice.org/attorney-resources-registered-users>
- Access to sample documents is restricted to NIJC *pro bono* attorneys who have registered on the website.

Other information about client counseling and affidavit preparation can be found in the Attorney Resource section of NIJC's website: <http://immigrantjustice.org/attorney-resources>

Other Ways to Support NIJC

- Follow NIJC on Twitter: @NIJC
- Friend NIJC on Facebook: <https://www.facebook.com/immigrantjustice>
- Watch NIJC on You Tube: <http://www.youtube.com/immigrantjustice>
- Sign up for NIJC's Action Alerts:
<http://org2.democracyinaction.org/o/5967/t/6480/signUp.jsp?key=1151>

THANK YOU!

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