

SSCS Guidelines for Court Involvement

- The mental or emotional condition or diagnosis of SSCS client is known or anticipated to be a subject of court proceedings.
- SSCS participation is clearly defined as witness or expert testimony.
- SSCS testimony pertaining to domestic violence requires that the issue of domestic violence is legally relevant to court proceedings (i.e. nature of abuse meets NDCC definition of domestic violence and custody must be an issue).
- Attorney has made client aware of all legal implications of releasing records including that opposing side will have access to records; and interpretation of those records is at the court's discretion.
- Attorney is prepared to request SPECIFIC case information from SSCS. SSCS does not release entire case files for random perusal to determine if they contain anything of value for court proceedings.

These rules are intended to honor the privacy of SSCS counseling relationships, records and the laws regarding the confidentiality of mental health information.

Fees

Counseling fees are separate from court-related fees. Mental health insurance covers therapy services only. Court fees **MUST BE MADE IN ADVANCE** and are structured as follows:

- \$1000 minimum fee per day for blocking off schedule for purposes of providing testimony. This is non-refundable in the event testimony is canceled or postponed.
- \$200 per hour to write affidavits, consult with attorney, or perform court-related duties not related to providing therapy services.



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Soul Survivor Counseling Services

and the COURTS

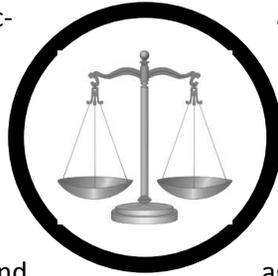


**Should my counselor testify in my court case?
Factors and policies to consider...**

Overview

Soul Survivor Counseling Services' (SSCS) counselors are often asked to testify, provide records, and write affidavits for both criminal and civil court proceedings on behalf of SSCS clients.

Successful therapy must include **protections of confidentiality** and must include a **positive relationship between therapist and client**. Therapist involvement in court matters for clients can adversely



affect both. After careful consideration of a client's best interest, **court involvement may be provided as an EXCEPTION** and is not an obligation of mental health services provided by SSCS unless otherwise court-ordered.

All other participation in legal matters is voluntary even if the client requests or agrees to release their confidential information. **An attorney does not have the legal authority to require therapist involvement** without a court order.

Factors to Consider

- A therapist's primary obligation is to provide mental health services. Advocacy within systems or other agencies is only necessary in the event the client is unable to advocate for themselves.
- If you agree to therapist involvement, the court and anyone present in the court room or with access to the court file will likely become aware of your mental health diagnoses and your level of and nature of participation in therapy.
- Therapist involvement in court matters is considered successful if the therapist emerges from the court involvement with his/her integrity intact and with the patient not being surprised by, or concerned with the accuracy of the therapist's actual testimony. Success is NOT based on the influence or weight the judge gives the therapist's testimony.
- The value of practitioner's testimony is determined by the judge. It may be deemed irrelevant, biased, or hearsay even when discussing serious issues such as physical and/or emotional abuse.
- When clients overvalue the practitioner's court involvement and there is a negative outcome, the therapeutic relationship can be irreparably harmed.
- Due to court rules, clients will likely forfeit their confidentiality to the opposing litigants and records may become part of an open court record.

Witness Definitions

Expert Witness - a person who is a specialist in a subject, who may present his/her expert opinion without having been a witness to any occurrence relating to the lawsuit or criminal case. It is an exception to the rule against giving an opinion in trial, provided that the expert is qualified by evidence of his/her expertise, training and special knowledge. If the expertise is challenged, the attorney for the party calling the "expert" must make a showing of the necessary background through questions in court, and the trial judge has discretion to qualify the witness or rule he/she is not an expert, or is an expert on limited subjects.

Character Witness - a person who testifies in a trial on behalf of a person as to that person's good ethical qualities and morality both by the personal knowledge of the witness and the person's reputation in the community. Such testimony is primarily relevant when the party's honesty or morality is an issue.

