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TRAUMA IN PRACTICE

Establishing a Trauma-Informed Lawyer-Client Relationship (Part One)

Talia Kraemer and Eliza Patten

As a lawyer for youth, you know many of your clients have experienced trauma, particularly those involved in the child welfare or juvenile justice systems. Trauma can affect the most fundamental aspects of the attorney-client relationship.

Even though most lawyers are not mental health professionals, a working understanding of trauma, including its origins and its impacts, can be helpful in anticipating and responding to trauma's effects as they surface in our work with clients.

This two-part article presents strategies for building stronger, more trauma-informed *attorney-client relationships* with youth.

Why focus on the attorney-client relationship?

- *Client trust and engagement.* A client's trauma history can make it difficult to build trust and actively involve the client with her legal case. By learning to build relationships that better respond to the needs of youth who have experienced trauma, you can improve client engagement and fulfill your mandate as the child's representative.[1]
- *Attorney-client interactions.* Childhood trauma can affect a person's cognitive and psychosocial development, including how one thinks, processes information, and communicates with others. Trauma thus impacts basic attorney-client interactions, such as interviewing, explaining case developments, and counseling and advising clients on case-related decisions.
- *Modeling positive relationships.* Youth who have experienced trauma, particularly in the context of interpersonal relationships, often expect new relationships to reinforce negative beliefs they have developed about themselves and others; for example, that they are inherently unlikeable or "bad," or that adults are untrustworthy and will inevitably hurt them. Many experts agree that one of the best paths to healing for traumatized

(*Cont'd on p. 198*)

Defining "Trauma"

Trauma "results from an event, series of events, or set of circumstances that is experienced by an individual as physically or emotionally harmful or threatening and that has lasting adverse effects on the individual's functioning and physical, social, emotional, or spiritual well-being." (Substance Abuse and Mental Health Services Administration, Trauma Definition, www.samhsa.gov/traumajustice/traumadefinition/definition.aspx)

Complex Trauma "describes both children's exposure to multiple traumatic events, often of an invasive, interpersonal nature, and the wide-ranging, long-term impact of this exposure. These events are severe and pervasive . . . [and] usually begin early in life." (National Child Traumatic Stress Network, *Complex Trauma*, www.nctsn.org/trauma-types/complex-trauma)

For a thorough discussion of the definition of trauma, see "Understanding Trauma and its Impact on Child Victims," by Eva Klain in the September 2014 *CLP.*

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youth can be to develop positive, safe relationships.[2] Like all professionals who work with these youth, lawyers can either aid in the client's healing or magnify a client's vulnerabilities.

Not all court-involved youth have experienced trauma, and reactions to trauma vary among those who have. Some youth experience few or no long-term effects of trauma. Drawing on the public health principle of "universal precaution," we advocate adopting a trauma-informed approach to *all* client relationships, seeking, at minimum, to "do no harm." At best, lawyers can communicate with and counsel their clients more effectively, achieve more authentically client-directed representation, and help clients move beyond their trauma to healthy developmental paths.[3]

Challenges of Trauma-Informed Lawyering

Childhood trauma affects how a young person perceives and interacts with the world around her. Trauma's impact is not only psychological, but also physiological: children's brains, incomplete at birth, develop in ways that respond to the child's experiences with traumatic stress.[4] Clients who experience these responses may think and behave in ways that make it more challenging for the lawyer to build trust, communicate effectively, and engage the client in making decisions about her legal case.

This section draws on knowledge from the mental health and medical fields to describe common effects of childhood trauma. Keep in mind that trauma's impact on a young person varies, depending on the type of trauma experienced, whether the trauma was isolated or repeated, the age at which the trauma was experienced, the young person's gender and cultural identity, and the caregiving and social supports available to the young person before and after the traumatic events.[5] We encourage you to consult other resources and mental health professionals working directly with your clients to better understand the impact of a client's experiences with trauma.

Building Relationships

Impaired sense of safety. Traumatized youth often have an impaired sense of safety. Having been exposed to acute or chronic threat—such as maltreatment, neglect, or community or domestic violence—they may perceive even neutral environments as threatening, and their brains are primed to go into "survival" mode. Although youths' survival-oriented behaviors are natural and healthy in the face of real danger, they become maladaptive in nonthreatening social contexts.[6] These behaviors might be how the youth functions day in and day out (i.e., their baseline level of functioning), or youth might exhibit them when something, consciously or unconsciously, reminds them of a past trauma. This latter phenomenon is known as *triggering*, and the thing that prompted the survival response is often referred to as a trauma "trigger."[7]

Youths' survival behaviors vary. Youth may become "*hyperaroused*," a state of heightened energy and alertness to threat. Clients who are hyperaroused might appear jumpy, have frequent outbursts, or become confrontational or aggressive.[8] Another common response is "dissociation"—mentally shutting down, becoming numb, or having "gone elsewhere." Youth may also deal with perceived threats by altering their behavior and daily patterns to avoid reminders of past trauma.[9]

Dissociation can be harder to recognize than hyperarousal but can still create challenges when building attorney-client relationships. For example, a dissociated client may seem indifferent to the legal proceedings or to the lawyer's efforts at counseling. Avoidance may lead a client to start skipping appointments, causing frustration and logistical challenges for the lawyer.

Controlling emotions. Children exposed to trauma can have trouble controlling their emotions. The parts of their brains that remain alert to threat have been constantly turned on, while they may have had less opportunity to develop self-regulation skills. They often feel overwhelmed by their emotions and simultaneously lack tools for calming themselves down. To others, they can appear out of control or overly impulsive.[10]

Lack of trust. Building trust is a formidable task, particularly with youth who have been exposed to violence or trauma in the context of intimate relationships.[11] These youth have learned that adults cannot keep them safe, do not attend to their needs, and may harm them. They are more likely to be hyperalert in social interactions and to misread facial or verbal cues as negative.[12] When building new relationships, youth who have experienced interpersonal trauma may try to push the adult away or provoke an adverse response. The youth may be modeling how she has been treated in past relationships or trying to achieve control by bringing about negative treatment that she considers inevitable.[13] Clients may engage in behaviors to "test" whether you will ultimately disappoint and reject them, as other adults have done.

Communication and Counseling

Information processing. Youth impacted by trauma may have trouble with information processing and receptive language. Primarily focused on safety and survival, they may miss much of what is said to them, either because they are on the lookout for threat or because they are dissociated.[14] A client may repeatedly glance at the door, jump each time the phone rings, or seemingly daydream instead of following your questions and explanations.

Impaired self-expression. Clients may also have trouble expressing themselves. Dr. Susan Craig explains that instability in early childhood can impair the development of sequential memory, whereby children learn to

organize and remember information and experience in a linear fashion.[15] Further, youth who are neglected or maltreated often have less exposure to verbal language in their early relationships. In particular, talk tends to be instrumental, rather than focused on expressing feelings and needs.[16] These deficits can make it harder for youth to construct clear narratives or verbally express their emotions.[17]

Youth may also have grown up in homes where secrets are common and disclosure is discouraged, inhibiting the youth's comfort speaking up about experiences. Overall, a client's experiences with trauma can create many barriers to getting a smooth or reliable narrative from the client. Instead, lawyers may find that clients' narratives involve long, confusing discourses, include gaps in recall, or appear split off from emotion.[18]

Difficulty sharing trauma histories. Challenges arise when clients are asked to discuss matters directly relating to their trauma histories. Youth may be hesitant to share their experiences because adults have told them not to talk about their traumas or, when the youth did, shut them down or rejected their accounts as untrue. Clients may also keep quiet out of shame, feeling they bear responsibility or "deserved it," or out of loyalty to family or others involved in their traumas.[19]

Decision making. Trauma's cognitive impacts may also affect how youth approach case-related decision making. Children exposed to violence may have trouble understanding cause and effect, having been subjected to harm without any apparent cause. As Dr. Craig explains, because their own behavior has led to unpredictable responses from others, these youth may not see themselves as capable of impacting outcomes and may struggle with predicting consequences.[20]

Building Better Attorney-Client Relationships

A strong working relationship is key to effectively represent youth who have experienced trauma. In addition to facilitating traditional lawyering functions, discussed further in part two of this article, building strong relationships with traumatized clients has value in and of itself. While maintaining perspective about your relative importance and place in your clients' lives, also recognize that all positive relationships can be restorative, allowing a young person gradually to change negative beliefs she has developed about herself, how she can expect to be treated by others, or what is possible for her.[21]

Adopting a Trauma-Informed "Stance"

Trauma-informed lawyering is not a step-by-step formula. In part, it rests upon characteristics intrinsic to all positive human relationships: empathy, responsive listening, restraint from judgment, demonstration of authentic care and concern. At the same time, lawyers should incorporate changes into their practice that respond to the vulnerabilities common among traumatized youth. Drawing on a framework recommended by Dr. John Sprinson, we suggest lawyers begin by adopting a trauma-informed "stance": a set of principles that inform your interactions with your client at all times. These principles seek to avoid exacerbating the client's impaired sense of safety, difficulty with trust, and negative beliefs about herself and her relationships with others.

The basic elements of a trauma-informed stance are:

1. **Transparency** – Be fully transparent with the client about her legal case, in age-appropriate terms. Transparency promotes trust and minimizes the youth's feelings of powerlessness—a common trauma "trigger"—in the face of what is likely a bewildering or overwhelming process. Transparency also helps distinguish your relationship from past relationships the client may have had that were characterized by secrets or mystification.
2. **Predictability** – Repeatedly preview for the client what is to come, both in the attorney-client relationship and in the broader legal process. For example, regularly preview upcoming case milestones, decisions the client will have to make, and events the client will need to attend, such as court hearings or meetings. Create routines with the client, such as always holding meetings on the same day or in the same place. Because of their heightened alertness to threat, youth who have experienced trauma often have difficulty with the unfamiliar or unexpected, whereas predictability and routine can help them feel safe.
3. **Client Control** – Give clients a voice in decisions that affect them, in a way that is purposeful and exceeds baseline ethical requirements. Actively empower the client to exercise her agency by validating the client's strengths and helping her develop decision-making and related life skills. These efforts counteract feelings of powerlessness caused by past traumas and can also provide a sense of mastery, which research shows is critical for healthy development post trauma.
4. **Reliability** – Be reliable, always following through on responsibilities, commitments, and appointments. Never make a promise that you might break. Commitment to this principle should go beyond basic requirements of professionalism. A youth who has experienced trauma, particularly in the context of relationships, often expects betrayal and disappointment from others. Even minor breaks in trust reinforce the client's belief that adults are untrustworthy and potentially dangerous.

5. **Proactive Support** – Anticipate issues that may arise during your representation and in the legal case that may be distressing or destabilizing for your client. Consult with mental health professionals and other adults in the client's life to identify situations that may be stressful or even "triggering," as well as supports that will be available to your client when needed.
6. **Patience –** Building connections takes time. Despite your best intentions, missteps with the client are certain. You will likely disappoint the client, and the client may blow up at you or push you away. Remain patient, present, and available to the client. This shows that you will not desert her despite inevitable bumps in the relationship or her efforts to "test" you.

Establishing clear boundaries creates predictability and can help the youth feel safe.

Role Definition and Boundaries

Roles. Adopting a trauma-informed "stance" creates the background conditions for strong client relationships. It is also crucial to have clear conversations with the client about your role. This maximizes predictability and provides a baseline against which the client can evaluate your reliability. We suggest covering the following topics as soon as possible with the client. Note that it may be necessary to revisit conversations about your role repeatedly during the representation.

- Explain your role, services you do and do not provide, and what you can and cannot expect to accomplish for the client.
- Clarify how you differ from other adults in the client's life and in the legal case.
- Explain the client's role and which decisions are within her control. If you represent the client's "best interests," be clear early on about when you might need to advocate against your client's wishes to avoid "blindsiding" the client and creating a sense of betrayal.
- In client-driven representation, emphasize the client's power and agency. Many young children have trouble understanding that they, not the adult lawyer, have decision-making power. This tendency can be exacerbated in youth who respond to trauma by being excessively compliant with adults, either out of fear that missteps might yield retribution or as symptomatic of a dissociative response to the trauma. Clients who respond to trauma by acting out versus shutting down are often seeking power and recognition. Offering them an alternate way to be seen and heard and have their voice respected in the attorney-client relationship may disrupt their internal belief that acting out and aggression are the only means to obtain status and recognition.
- Explain confidentiality and its limits.
- Give the client reliable information about your schedule, availability, and how to contact you. You do not need to be available at all times to be "reliable;" it is better to have scheduled check-ins that you are able to keep.
- Explore the client's assumptions about the attorney-client relationship. Has the client had prior attorneys? What were those relationships like? What worked well, and what didn't? By asking the client to express her opinions about working with an attorney, you can better anticipate bumps in your relationship and avoid creating a dynamic that the client feels powerless to alter in the future.[22]

Boundaries. Role definition is crucial because it helps establish boundaries in the attorney-client relationship. Many traumatized youth have experienced grievous violations of their personal boundaries, or have grown up in environments where the lines between children and adults are blurred.[23] Establishing clear boundaries creates predictability and can help the youth feel safe. It is especially important not to create a false sense that you can rescue your client or her family, or to foster a dependence on you that will become another loss to your client when your role in her life is over. Recall that your journey with the client has a beginning, middle, and an end. Preview that end from the beginning, and keep it alive throughout the relationship, as a conscious recognition of the limits of your availability.

Repairing Ruptures. While building strong client relationships, recognize that ruptures in the relationship are inevitable. Creating opportunities to repair those ruptures is part of strengthening the relationship with the client.[24] Despite best intentions, you risk doing or saying something that breaks the client's trust or triggers survival responses. Clients may also try to push you away, or transfer to you feelings, such as anger or frustration, that they cannot bear. If you can stay calm and committed, or bear something the client finds unmanageable, the client benefits from observing that capacity in another.

By remaining engaged and reliable, you disprove the client's belief that you will abandon her or that her feelings are "too much" to handle.[25] This also shows respect for your client's adaptive behaviors by recognizing that such adaptations were born out of self-preservation. It is not your role as lawyer to suggest the client abandon these behaviors for your sake.

Preparing for and Responding to Triggering

Among the more severe trauma-related reactions you might encounter

over the course of the representation is "triggering," which occurs when something in the youth's environment activates a memory of the trauma, evoking an intense and immediate reaction from the youth.[26] As revisiting content related to a specific traumatic event can be triggering, so can the *effects* of a traumatic event. For example, the emotional state of hyperarousal, which the client may have felt while experiencing the trauma, can itself be a trigger.[27] Common triggers include unpredictability; transition; loss of control; feelings of vulnerability, loneliness, or rejection; sensory overload; confrontation; embarrassment or shame; intimacy; and even positive attention.[28] While most lawyers are not trained to judge in a clinical sense whether a client is being "triggered," the following reactions can be signs that a client may be triggered:[29]

1. Jumping up or lashing out
2. Difficulty tracking the lawyer's questions
3. Difficulty making oneself clearly understood (e.g., a long tangled narrative)
4. The client gives a brief, clipped narrative, or claims not to remember.
5. The client shuts down, develops a flat affect, becomes lost in the conversation, can't remember what she was talking about, or appears to have "gone somewhere else."
6. Regressive behaviors (e.g., thumb sucking)
7. With the client's consent, consult mental health providers and other adults in your client's life to understand what things are known to trigger your client and how your client reacts (and subsequently recovers) when triggered. Ideally, each client who comes into contact with the legal system should receive appropriate assessments of her present level of functioning, trauma history, needs, and strengths, and have access to coordinated services as needed.

In addition to seeking individualized guidance, the following roadmap can guide your response if you are with the client when she is in a triggered state.[30] These recommendations also apply when a client is in a lesser state of emotional distress, and are useful when you are unsure if the client is being "triggered."

- Trust your ability to read the client. If it appears your client is becoming distressed, address that distress instead of simply moving forward.
- When someone's "survival brain" has been triggered, that turns off the prefrontal cortex—the brain's reasoning center. Dr. Joyce Dorado uses the analogy that the "rider is off the horse." Before doing anything else to ameliorate the situation, get the rider back on the horse. Do nothing to startle the young person; do not be confrontational and do not escalate the situation. Do what you can to help the youth feel safe and in control. Give gentle reminders that the youth is safe, you are here, and you will wait for her to tell you when she is ready. Once the rider is back "on the horse," you can ask what led to her distress.[31]
- Tell the client her reactions to trauma are normal. There is not something "wrong" with her.
- Tell the client you will watch for signs that she is becoming upset in the future, to help her anticipate and ward off those moments. In so doing, you counter past relationships the youth may have had with adults who were not attuned to her needs.
- Prepare for the next time you are going to confront the trigger. Thank the client for letting you know she was uncomfortable, and tell her she can let you know next time she is getting upset. If it will be necessary to confront the trigger again during the legal case discuss this with the client, as well as how it fits with your efforts to help her attain her goals.
- Ensure the client has trusted adult(s) to follow up with as needed.
- If your client is willing to participate, link her to trauma-focused therapy that can help her develop strategies for regulating emotions. These therapies often rely on parent or caregiver involvement. You can also identify caring adults who may be willing to help the client build these critical emotion-regulation skills.

Conclusion

To create a solid foundation for working effectively with traumatized youth, lawyers should focus on building strong attorney-client relationships that respond to common effects of childhood trauma. Part Two of this article will address strategies for interviewing and counseling traumatized youth and talking with them directly about their trauma experiences.

Eliza Patten, JD, CWLS, is a senior staff attorney at Legal Services for Children, San Francisco, CA. *Talia Kraemer,* JD, is a fellow (2012-2013) at Legal Services for Children, San Francisco, CA.

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Endnotes

1. This article focuses on the traditional lawyer-client role; however, the recommendations also apply to lawyers who practice in jurisdictions where their role is a modified lawyer role requiring representation of the child client's "best interests."

2. Vandervort, Frank E., Jim Henry & Mark Sloane. *Building Resilience in Foster Children: The Role of the Child's Advocate*, 2012, 11; Cole, Susan F., et al. *Helping Traumatized Children Learn: Supportive School Environments for Children Traumatized by Family Violence*, 2005, 38-39.

3. Attorneys familiar with guidance on lawyering for children may recognize that some of our recommendations mirror that guidance. Some proposals may already be considered good practice in light of considerations about child and adolescent development, the context in which lawyers and/or other public officials find themselves involved in the private sphere of the family, or attorney ethics requirements. We restate them here to introduce trauma as another motivation for those practices.

4. Jack P. Shonkoff et al. *The Lifelong Effects of Early Childhood Adversity and Toxic Stress*, 2012, e235-38; American Academy of Pediatrics. *Helping Foster and Adoptive Families Cope with Trauma*, 2013, 2-4 ("AAP").

5. Vandervort et al., 2012, 3; Bassuk, Ellen L., Kristina Konnath & Katherine T. Volk. *Understanding Traumatic Stress in Children,* 2006, 3.

6. AAP, 2013, 8; Craig, Susan E. *Reaching and Teaching Children Who Hurt,* 2008, 98-99; Kinniburgh, Kristine et al. "Attachment, Self-Regulation, and Competency." *Psychiatric Annals*, 2005, 427-28.

7. Craig, Susan E. *Reaching and Teaching Children Who Hurt*, 2008, 100.

8. AAP, 2013, 8; Perry, Bruce D. *Effects of Traumatic Events on Children: An Introduction*, 2003, 2-5; Vandervort, 2012, 4.

9. AAP, 2013, 8; Perry, 2003, 7-8; Vandervort et al., 2012, 4.

10. AAP, 2013, 12; Craig, 2008, 98-99; Kinniburgh et al., 2005, 427-28.

11. Craig, 2008, 96.

12. Kinniburgh et al., 2005, 428.

13. Craig, 2008, 90; Sprinson, John & Ken Berrick. *Unconditional Care: Relationship-Based, Behavioral Intervention with Vulnerable Children and Families,* 2010, 58-59.

14. Cole et al., 2005, 21-24; Craig, 2008, 51-52.

15. Craig, 2008, 26-27.

16. Cole et al., 2005, 25.

17. Craig, 2008, 47-48.

18. Dr. John Sprinson, Training at Legal Services for Children, Feb. 8, 2013 (on file with authors) ("Sprinson Training 2/8/13").

19. Sprinson Training 2/8/13.

20. Craig, 2008, 22-24.

21. As Sprinson and Berrick explain, "Children . . . are actively construing their experience and working to construct images of what drives the behavior of others, of who they are in relation to others, and of what they can expect in the future. . . . [A] child who has suffered a pattern of sustained hurtful early experiences such as loss, neglect, or abuse will have a way of representing the self and the world that is consistent with or reflects that experience. She may believe she is bad, damaged, or in some way deserving of this treatment and will expect the treatment to continue. . . . These ideas are not easy to revise in the face of new experience and are especially resistant to alteration by language." Thus, adults working with these youth should "work to provide the child with experiences in relationships that are different from those encountered in past relationships and to support the child in very gradually constructing a new model of how these relationships might unfold." Sprinson & Berrick, 2010, 57-59.

22. Sprinson Training 2/8/13.

23. Sprinson & Berrick at 7; Craig, 2008, 90.

24. Sprinson & Berrick, 2010, 47.

25. Sprinson Training 2/8/13.

26. Craig, 2008, 100-01.

27. Ibid.

28. Dorado, Joyce. Healthy Environments and Response to Trauma in Schools (HEARTS), University of California San Francisco (UCSF). *Promoting School Success for Students Who Have Experienced Complex Trauma: Creating Trauma-Sensitive School Environments,* 2013, 29 (on file with authors).

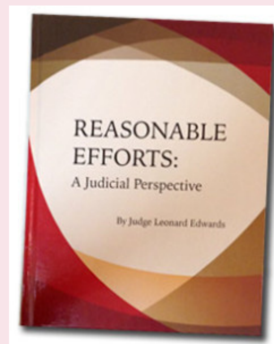
29. Dr. John Sprinson, Training at Legal Services for Children, Feb. 22, 2013 (on file with authors).

30. We are grateful to Dr. John Sprinson and Gena Castro Rodriguez for their assistance in compiling these recommendations.

31. Dorado, 2013, 36, 39.

NEW IN PRINT

New Book on Reasonable Efforts



Judge Leonard Edwards, a former California child welfare judge for over two decades, has released a book on reasonable efforts in child welfare cases: *Reasonable Efforts: A Judicial Perspective.*

The book comes from the view of a judicial officer in a dependency court. It explains the judge's role and how reasonable efforts can be a tool in providing oversight of prevention, reunification, and other permanency options.

The book explains the history and current state of the law, including legal requirements for findings at different stages, aggravated circumstances, and state statutory and case law on reasonable efforts. It examines reasonable efforts in common contexts, including inadequate housing, poverty, visitation, domestic violence, substance abuse, mental health, engaging fathers and relatives, and incarcerated parents.

Tips and tools around best practices focus on quality legal representation, frontloading services, and cultural competence. Tools in the appendices include sample forms and benchcards.

Order from the National Council of Juvenile and Family Court Judges, Cheryl Davidek, cdavidek@ncjfcj.org, 775/784-6012. The book is free but there is a fee for shipping and handling.

THE PEDAGOGY OF TRAUMA-INFORMED LAWYERING

SARAH KATZ & DEEYA HALDAR*

"Trauma-informed practice" is an increasingly prevalent approach in the delivery of therapeutic services, social and human services, and now legal practice. Put simply, the hallmarks of trauma-informed practice are when the practitioner puts the realities of the client's trauma experiences at the forefront in engaging with the client, and adjusts the practice approach informed by the individual client's trauma experience. Trauma-informed practice also encompasses the practitioner employing modes of self-care to counterbalance the effect the client's trauma experience may have on the practitioner.

This article posits that teaching trauma-informed practice in law school clinics furthers the goals of clinical teaching, and is a critical aspect of preparing law students for legal careers. Trauma-informed practice is relevant to many legal practice areas. Clients frequently seek legal assistance at a time when they are highly vulnerable and emotional. As clinical professors who each supervise a family law clinic, we of course teach our students how to connect with their clients, while drawing the appropriate boundaries of the attorney-client relationship. Equally challenging and important is helping our students cultivate insight into identifying and addressing trauma and its effects. Many of our clinics' clients are survivors of intimate partner violence or have experienced other significant traumatic events that are relevant to their family court matters. Law students should learn to recognize the effects these traumatic experiences may have on their clients' actions and behaviors. Further, law students should learn to recognize the effect that their clients' stories and hardships are having on their own advocacy and lives as a whole. It is particularly crucial that we educate our law students about the effects of vicarious trauma and help them develop tools to manage its effects as they move through their clinical work and ultimately into legal practice.

This article argues that four key characteristics of trauma-informed lawyering are: identifying trauma, adjusting the attorney-cli-

* The authors are Sarah Katz, Assistant Clinical Professor of Law, James E. Beasley School of Law, Temple University, and Deeya Haldar, Adjunct Professor of Law, Thomas R. Kline School of Law at Drexel University. The authors are extremely grateful for the research assistance of Khadijeh Jaber, Temple Law '15, and Janice Daul, Drexel Law '14. Sarah Boonin, Brad Colbert, Phyllis Goldfarb, Natalie Nanasi and Jane Stoever provided invaluable feedback on an early version at the *Clinical Law Review* workshop at New York University. Colleagues at the AALS Clinical Conference, AALS Family Law Mid-Year Meeting, and the Mid-Atlantic Clinical Workshop gave thoughtful suggestions and edits. Thank you also to Susan Brooks for helpful guidance as this project unfolded.

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ent relationship, adapting litigation strategy, and preventing vicarious trauma. Specifically, the article discusses how to teach trauma-informed lawyering through direct examples of pedagogical approaches.

Introduction

When Victoria[1] *came into the clinic for an intake appointment with a law student, the student knew only that this was a child and spousal support case. After explaining the goals and purpose of an intake interview, the law student asked a simple question: what legal problem brings you here today? Victoria broke down crying and began explaining that about two years before, she learned that her husband of twenty-one years had been sexually abusing their now thirteen year-old daughter and fifteen year-old son since they were small children. Victoria stated that her husband had sometimes physically abused her, but she knew nothing of the sexual abuse. After the disclosure, she had filed for and been granted a protection order in Tennessee on behalf of herself and her children. She then moved with her children from the marital home in Tennessee to Philadelphia to be with family. The Tennessee protection order expired, and because of threatening phone messages received from her husband, she had sought a protection order again in Philadelphia. A local domestic violence legal services agency had referred her to the clinic for help with a child and spousal support case.*

During the meeting with the law student, Victoria became increasingly upset, and continued to share details of the abuse she and her children had suffered. Victoria seemed intent on convincing the law student that she really had not known about the abuse of her children while it was happening. The law student offered tissues and told Victoria repeatedly that he believed her, and that it must have been so awful to make this realization. When the law student tried to move the focus of the conversation to the pending support case, it turned out that Victoria had not brought any of the paperwork she had been asked to bring by the clinic's office manager. The law student got as much information as Victoria could provide, and then explained that for the clinic to see if it could help her with the case, he would need to see the paperwork. The law student and Victoria scheduled another appointment, and the law student provided Victoria a written list of the needed documents. The law student discussed with his supervisor, and later shared in class case rounds, how challenging the interview had been. Victoria did bring the needed documents to the second appointment, and the clinic ultimately accepted the case.

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[1] This case description is based on the experience of a client represented by Professor Katz's clinic. Names and identifying information have been changed.

Prior to going to court, Victoria called the law student asking if she could just not attend the court date, because she was terrified of seeing her husband. The law student calmly explained that Victoria needed to be present if she wanted to pursue the support claim. They scheduled a time to meet the day before court, and the law student spent a lot of time reviewing with Victoria exactly what occurs in a support hearing, including where she and others would sit, what types of questions would be asked, and what the law student would be doing. The law student also arranged to meet Victoria prior to the hearing time at a location near the courthouse, so they could walk into court together. Because the litigation became very contentious and there were multiple court hearings, the law student repeated this approach each time there was a court hearing. He also encouraged Victoria to speak with her therapist about her anxiety over dealing with her husband. Ultimately the support case was resolved favorably for Victoria.

While many reading would view the description of the law student's handling of the case above as simply "good lawyering," it is also an example of "trauma-informed practice." "Trauma-informed practice" is an increasingly prevalent approach in the delivery of therapeutic services, social and human services, and now legal practice. Put simply, the hallmarks of trauma-informed practice are when the practitioner, here a law student, puts the realities of the clients' trauma experiences at the forefront in engaging with clients and adjusts the practice approach informed by the individual client's trauma experience. Trauma-informed practice also encompasses the practitioner employing modes of self-care to counterbalance the effect the client's trauma experience may have on the practitioner.

Although there is a body of clinical legal education literature devoted to the value of teaching and developing law students' empathy toward their clients, less attention has been devoted to the importance of teaching trauma-informed practice, the pedagogy of teaching law students to recognize and understand trauma, and the effect of vicarious trauma on law students (and attorneys) who work with clients who have experienced serious trauma. Clients frequently seek legal assistance at a time when they are highly vulnerable and emotional. In practice areas such as family law, immigration, child welfare, criminal law and others, by necessity, clients must share some of the most intimate and painful details of their lives. In our family law clinics, our students are taught how to connect with their clients, while drawing the appropriate boundaries of the attorney-client relationship. Equally challenging and important is helping our students cultivate insight into identifying and addressing trauma and its effects. Many of

our clinics' clients are domestic violence survivors or have experienced other significant traumatic events that are relevant to their family court matters. Law students must learn to recognize the effects these traumatic experiences may have on their clients' actions and behaviors. Further, law students must learn to recognize the effect that their clients' stories and hardships are having on their own advocacy and lives as a whole. It is particularly crucial that we educate our law students about the effects of vicarious trauma and help them develop tools to manage its effects as they move through their clinical work, and ultimately into legal practice.

Although the authors draw from their own experience teaching family law clinics, other types of law school clinics could likely benefit from the pedagogy of trauma-informed lawyering, such as immigration law, criminal law, juvenile law, and veterans' rights law.[2] A significant body of literature exists regarding working with traumatized children involved in the legal system, including in the law school clinical context.[3] It is the authors' intention that this article will provide tools for teaching trauma-informed practice in all law school clinic settings, while the examples offered are specific to family law experience.

This article proceeds in three sections. The first section will further explore trauma-informed practice, and what is meant by the terms "trauma," and "vicarious trauma." The second section will argue why teaching trauma-informed lawyering in a clinical legal educa-

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[2] *See, e.g.*, Lynette M. Parker, *Increasing Law Students' Effectiveness When Representing Traumatized Clients: A Case Study of the Katherine & George Alexander Community Law Center*, 21 GEO. IMMIGR. L.J. 163 (2007) (discussing students in immigration clinic begin confronted with traumatized client seeking asylum); Ingrid Loreen, *Therapeutic Jurisprudence & The Law School Asylum Clinic,* 17 ST. THOMAS L. REV. 835, 845 (2005) (arguing that students need training in therapeutic jurisprudence topics, including trauma training in order to adequately serve traumatized clients seeking asylum); Sarah Mourer, *Study, Support, and Save: Teaching Sensitivity in the Law School Death Penalty Clinic*, 7 U. MIAMI L. REV. 357 (2013) (discussing students exposed to clients with trauma histories in the Miami Law Death Penalty Clinic); Capt. Evan R. Seamone, *The Veterans' Lawyer as Counselor: Using Therapeutic Jurisprudence to Enhance Client Counseling for Combat Veterans with Posttraumatic Stress Disorder,* 202 MIL. L. REV. 185 (2009).

[3] *See* Carolyn Salisbury, *From Violence and Victimization to Voice and Validation: Incorporating Therapeutic Jurisprudence in a Children's Law Clinic*, 17 ST. THOMAS L. REV. 623 (2005). *See also* Renee DeBoard-Lucas, Kate Wasserman, Betsy McAlister Groves & Megan Bair-Merritt, *16 Trauma-Informed, Evidence-Based Recommendations for Advocates Working with Children Exposed to Intimate Partner Violence*, 32(9) CHILD L. PRAC. 136 (2013); JEAN KOH PETERS, REPRESENTING CHILDREN IN CHILD PROTECTIVE PROCEEDINGS: ETHICAL AND PRACTICAL DIMENSIONS 9 (2007); NATIONAL CHILD TRAUMATIC STRESS NETWORK, BIRTH PARENTS WITH TRAUMA HISTORIES AND THE CHILD WELFARE SYSTEM: A GUIDE FOR JUDGES AND ATTORNEYS, *available at* http://www.nctsn.org/products/birth-parents-trauma-histories-child-welfare-system-guide-birth-parents-2012 (last viewed Dec. 20, 2015).

tion setting makes sense. The third section will identify four hallmarks of trauma-informed legal practice: (1) identifying trauma; (2) adjusting the lawyer-client relationship; (3) adapting litigation strategy; and (4) preventing vicarious trauma. The article then discusses how to incorporate these hallmarks of trauma-informed lawyering as teaching goals in law school clinics through direct examples of pedagogical approaches.

I. Defining Trauma-Informed Practice

Trauma-informed practice has gained traction in the therapeutic world for at least the last decade. As one practitioner has explained, "[t]rauma-informed practice incorporates assessment of trauma and trauma symptoms into all routine practice; it also ensures that clients have access to trauma-focused interventions, that is, interventions that treat the consequences of traumatic stress. A trauma-informed perspective asks clients not 'What is wrong with you?' but instead, 'What happened to you?'"[4] As psychiatrist Sandra Bloom has written, "It connects a person's behavior to their trauma response rather than isolating their actions to the current circumstances and assuming a character flaw."[5] A trauma-informed system also focuses on how services are delivered, and how service-systems are organized.[6] These approaches in the therapeutic context have begun to profoundly inform the delivery of other types of human and social services, such as child welfare,[7] law enforcement, and the courts.[8] But in order to understand what is meant by trauma-informed practice, an understanding of trauma, and vicarious trauma is necessary; this section will define and explain these terms, and then return to a discussion of how trauma-

[4] Nancy Smyth, *Trauma-Informed Social Work Practice: What Is It and Why Should We Care?*, Social Work/Social Care & Media (Mar. 20, 2012), *available at* http://swscmedia.wordpress.com/2012/03/20/trauma-informed-social-work-practice-what-is-it-and-why-should-we-care-opinion-piece-by-dr-nancy-smyth/ (*citing* Sandra L. Bloom, & Brian Farragher, Destroying sanctuary: the crisis in human services delivery systems (2011)).

[5] Sandra L. Bloom, *Why Should Philadelphia Become a Trauma-Informed City*, Briefing Paper Prepared for the Philadelphia Mayoral Forum, sponsored by the Scattergood Foundation (2015), *available at* http://sanctuaryweb.com/Portals/0/Bloom%20Pubs/2015%20Bloom%20Why%20should%20Philadelphia%20become%20a%20Trauma.pdf.

[6] Sandra L. Bloom, *The Sanctuary Model of Trauma-Informed Organizational Change,* 16 (1) The Source 12, 14 (Nat'l Abandoned Infants Resource Center, 2007).

[7] ABA Center for Children & the Law, Implementing Trauma-Informed Practices in Child Welfare (2013) *available at* http://childwelfaresparc.org/wp-content/uploads/2013/11/Implementing-Trauma-Informed-Practices.pdf.

[8] Substance Abuse and Mental Health Services Administration, Essential Components of Trauma-Informed Judicial Practice, *available at* http://www.nasmhpd.org/sites/default/files/JudgesEssential_5%201%202013finaldraft.pdf (last viewed Dec. 20, 2015) [hereinafter SAMHSA].

informed practice is implemented.

A. Understanding Trauma

An event is defined as traumatic when it renders an individual's internal and external resources inadequate, making effective coping impossible.[9] A traumatic experience occurs when an individual subjectively experiences a threat to life, bodily integrity or sanity.[10] The American Psychological Association further defines trauma as:

> [An] emotional response to a terrible event like an accident, rape or natural disaster. Immediately after the event, shock and denial are typical. Longer term reactions include unpredictable emotions, flashbacks, strained relationships and even physical symptoms like headaches or nausea. While these feelings are normal, some people have difficulty moving on with their lives.[11]

External threats that result in trauma can include "experiencing, witnessing, anticipating, or being confronted with an event or events that involve actual or threatened death or serious injury, or threats to the physical integrity of one's self or others."[12]

Trauma can take many different forms. A 1997 study found that about one third of the population will experience severe trauma at some point.[13] The most common sources of trauma, experienced by 15 to 35 percent of the people surveyed, included witnessing someone being hurt or killed, or being involved in a fire, flood, or other such life-threatening accidents.[14] Other common experiences included robbery and sudden deaths of loved ones.[15] An estimated 0.5 percent of people (1.2 million) in the United States were victims of a violent crime in 2014.[16] Researchers have begun to confirm the interconnection between the effects of racism and trauma.[17] Further the intercon-

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[9] Richard R. Kluft, Sandra L. Bloom, & John D. Kinzie, *Treating the Traumatized Patient and Victims of Violence, in* 86 NEW DIRECTIONS IN MENTAL HEALTH SERVICES 79 (2000) (*citing* B. A. Van der Kolk, *The Compulsion to Repeat the Trauma: Re-enactment, Re-victimization, and Masochism*, 12 PSYCHIATRIC CLINICS OF N. AM. 2 (1989)).

[10] LAURIE A. PEARLMAN & KAREN SAAKVITNE, TRAUMA AND THE THERAPIST: COUNTERTRANSFERENCE AND VICARIOUS TRAUMATIZATION IN PSYCHOTHERAPY WITH INCEST SURVIVORS 60 (1995).

[11] *Trauma*, AMERICAN PSYCHOLOGICAL ASSOCIATION, http://www.apa.org/topics/trauma/ (last viewed Dec. 20, 2015).

[12] *Id*.

[13] S.D. Solomon & J.R.T. Davidson, *Trauma: Prevalence, Impairment, Service Use, and Cost*, 58 J. CLINICAL PSYCHIATRY (SUPPL. 9) 5-11, 7 (1997).

[14] *Id.*

[15] *Id.*

[16] Jennifer L. Truman & Lynn Langton, *Criminal Victimization, 2014* at 1 (U.S. Dept. of Justice Sept. 29, 2015), available at http://www.bjs.gov/content/pub/pdf/cv14.pdf.

[17] *See, e.g.*, Dottie Lebron, Laura Morrison, Dan Ferris, Amanda Alcantara, Danielle Cummings, Gary Parker & Mary McKay, *The Trauma of Racism* (McSilver Institute for

nection between urban poverty and trauma has been established.[18]

Intimate partner violence and child maltreatment are other examples of trauma, and are far more prevalent than is often acknowledged. On average, twenty four people per minute are victims of rape, physical violence, or stalking by an intimate partner in the United States—more than twelve million women and men over the course of a year.[19] Nearly three in ten women and one in ten men in the US have experienced rape, physical violence, and/or stalking by a partner and report a related impact on their functioning.[20] A reported 1.71% of children are maltreated in the United States.[21]

The rates of abuse are higher among the population of litigants in family court. The anecdotal experience of our family law clinics is many of our clients have experienced serious incidents of physical or sexual abuse by an intimate partner, and in the past as a child. They may also have witnessed or experienced their own child(ren) being physically or sexually abused. These anecdotal observations are supported by empirical study. For example, one study indicated that 80% of parents who were separating or divorcing were able to agree on custody and parenting time with their children. But among the 20% of parents who needed the court to intervene to decide custody, domestic violence was remarkably prevalent, and a domestic violence allegation was substantiated in 41-55% of these cases.[22] In fact, experts have noted the "majority of parents in 'high-conflict divorces' involving child custody disputes report a history of domestic violence."[23] The National Center for State Courts has found documented evidence in court records of domestic violence in 20-55% of contested custody cases.[24]

Poverty Policy & Research, NYU 2015), *available at* http://www.mcsilver.org/wp-content/uploads/2015/04/Trauma-of-Racism-Report.pdf; Glenn H. Miller, *Commentary: The Trauma of Insidious Racism* 37(1) J AM. ACAD. PSYCHIATRY LAW 41, 42 (Mar. 2009).

18 *See, e.g.*, KATHRYN COLLINS ET AL., UNDERSTANDING THE IMPACT OF TRAUMA AND URBAN POVERTY ON FAMILY SYSTEMS: RISKS, RESILIENCE & INTERVENTIONS (Family Informed Trauma Treatment Center 2010).

19 CENTERS FOR DISEASE CONTROL, UNDERSTANDING INTIMATE PARTNER VIOLENCE FACT SHEET, *available at,* http://www.cdc.gov/ViolencePrevention/pdf/IPV-FactSheet.pdf (last viewed Dec. 20, 2015).

20 *Id.*

21 U.S. DEPT. OF HEALTH AND HUMAN SERVICES, FOURTH NATIONAL INCIDENCE STUDY OF CHILD ABUSE AND NEGLECT (NIS–4): REPORT TO CONGRESS, at 3-3 (2010).

22 Janet R. Johnson, Soyoung Lee, Nancy W. Oleson, & Marjorie G. Walters,, *Allegations and Substantiations of Abuse in Custody-Disputing Families*, 43 FAM. CT. REV. 283, 289-290 (2005).

23 PETER JAFFE, MICHELLE ZERWER, SAMANTHA POISSON, ACCESS DENIED: THE BARRIERS OF VIOLENCE AND POVERTY FOR ABUSED WOMEN AND THEIR CHILDREN AFTER SEPARATION 1 (2002).

24 NATIONAL CENTER FOR STATE COURTS, DOMESTIC VIOLENCE AND CHILD CUSTODY DISPUTES: A RESOURCE HANDBOOK FOR JUDGES AND COURT MANAGERS 5 (1997).

The trauma experiences of clients have a direct relationship to how they relate to their attorneys and the courts, because trauma has a distinct physiological effect on the brain, which in turn affects behavior in the short-term and long-term. Colloquially, this evolutionary response is sometimes referred to as a "flight, fight, freeze." As one writer has explained:

> The brain's prefrontal cortex—which is key to decision-making and memory—often becomes temporarily impaired. The amygdala, known to encode emotional experiences, begins to dominate, triggering the release of stress hormones and helping to record particular fragments of sensory information. Victims can also experience tonic immobility—a sensation of being frozen in place—or a dissociative state.[25]

Subsequently, a traumatic experience becomes encoded as a traumatic memory and is stored in the brain via a pathway involving high levels of activity in the amygdala, making recall of the traumatic event highly affectively charged.[26] Recall, either intentional or through inadvertent exposure to internal or external stimuli related to the trauma, leads to the release of stress hormones.[27] For many individuals who have experienced trauma, specific conditioned stimuli may be linked to the traumatic event (unconditional stimulus) such that re-exposure to a similar environment produces recurrence of fear and anxiety similar to what was experienced during the trauma itself.[28] Thus the physiological effects of trauma can manifest far after the traumatic incident occurs, as the amygdala does not always discriminate between real dangers and memory from a past dangerous situation.

In response to traumatic experiences, an individual may feel intense fear, helplessness, or horror.[29] People process these reactions differently, resulting in different indicators of trauma.[30] Four common behaviors are: anxiety and depression, intense anger towards self or others, the formation of unhealthy relationships, and denial.[31] Yet, although these common behaviors can result from trauma, the reac-

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[25] Rebecca Ruiz, *Why Don't Cops Believe Rape Victims?*, SLATE (June 19, 2013), http://www.slate.com/articles/news_and_politics/jurisprudence/2013/06/why_cops_don_t_believe_rape_victims_and_how_brain_science_can_solve_the.html.

[26] Ronald A. Ruden, *Neurobiology of Encoding Trauma*, *in* THE ENCYCLOPEDIA OF TRAUMA: AN INTERDISCIPLINARY GUIDE (Charles R. Figley ed.) 228, 230-231 (2012).

[27] *Id.*

[28] Dennis Charney, *Psychobiological Mechanisms of Resilience and Vulnerability: Implications for Successful Adaptation to Extreme Stress,* 2 AM. J. PSYCHIATRY 161 (2004).

[29] Kluft et al., *supra* note 9, at 1. R

[30] *Id.* at 3.

[31] Sandra L. Bloom, *The Grief That Dare Not Speak Its Name Part I: Dealing With the Ravages of Childhood Abuse*, PSYCHOTHERAPY REV. 2 (9), 408, 408-409 (2000). *See also* JUDITH HERMAN, TRAUMA AND RECOVERY: THE AFTERMATH OF VIOLENCE – FROM DOMESTIC TO POLITICAL TERROR, 88-95 (1992).

tions to traumatic events can look different among individuals because although trauma is a common human experience, it is affected by a wide range of "personality styles, ego strengths, diatheses for mental and physical illnesses, social supports, intercurrent stressors, and cultural backgrounds."[32] Thus, the reactions to trauma are psychobiologic and are influenced by complex individual and social contexts, all of which determine the ways in which each individual processes trauma.[33] As a result there are no universal indicators of, or responses to, traumatic events.[34]

The responses to trauma can be short term or long term.[35] Short-term consequences can include re-experiencing the traumatic event, such as having recurrent or intrusive distressing recollections of the event, acting or feeling as if the event is recurring, or avoidance of stimuli associated with the trauma.[36] Avoidance may include efforts to avoid thoughts, feelings, or conversations associated with the trauma, efforts to avoid activities, places, or people that arouse recollections of the trauma. Avoidance can also include amnesia for aspects of the trauma, detachment or estrangement from others, defensive mumbling, or dissociative symptoms.[37] Dissociation may consist of a diminished awareness or realization of ones surroundings, problems with concentration and attention, or increased arousal.[38] Increased arousal refers to such symptoms as experiencing difficulty falling or staying asleep, hypervigilance, or an exaggerated startle response.[39]

Long-term consequences may include persistence of the short term symptoms, chronic guilt and shame, a sense of helplessness and ineffectiveness, a sense of being permanently damaged, difficulty trusting others or maintaining relationships, vulnerability to re-victimization, and becoming a perpetrator of trauma.[40] The responses may also be triggered or exacerbated by anniversaries of traumatic events or stressors that are suggestive of the past trauma.[41]

B. Understanding Vicarious Trauma

Vicarious trauma, also sometimes called "compassion fatigue" or "secondary trauma," is a term for the effect that working with survi-

32 Kluft et al., *supra* note 9, at 3. R
33 *Id*. at 1.
34 *Id*. at 3.
35 *Id*. at 4.
36 *Id.*at 4.
37 *Id.* at 4-5; HERMAN, *supra* note 31, at 89. R
38 HERMAN, *supra* note 31, at 94. R
39 *Id.* at 5.
40 *Id*. at 4.
41 *Id*.

vors of trauma may have on counselors, therapists, doctors, attorneys, and others who directly help them.[42] Vicarious traumatization refers to harmful changes that occur in professionals' views of themselves, others, and the world, as a result of exposure to the graphic or traumatic experiences of their clients.[43] As psychologist Mark Evces has written, "[s]econdary, or indirect, traumatic exposure is not limited to mental health providers. Anyone who repeatedly and empathically engages with traumatized individuals can be at risk for distress and impairment due to indirect exposure to others' traumatic material."[44]

Vicarious trauma is distinct from "burnout," which refers to the toll that work may take over time.[45] Burnout can usually be remedied by taking time off, by moving to a new job. Vicarious trauma is a state of tension or preoccupation with clients' stories of trauma.[46] It may be marked by either an avoidance of clients' trauma histories (almost a numbness to the trauma) or by a state of persistent hyperarousal.[47]

Professionals experiencing vicarious trauma may experience painful images and emotions associated with their clients' traumatic memories and may, over time, incorporate these memories into their own memory systems.[48] As a result, there may be disruptions to schema in five areas.[49] These are safety, trust, esteem, intimacy, and control, each representing a psychological need.[50] Each schema is experienced in relation to self and others. The harmful effects of vicarious trauma occur through the disruptions to these schemas.[51] Vicarious trauma "has been described as a common, long-term response to working with traumatized populations, and as part of a continuum of helper reactions ranging from vicarious growth and resilience to vicarious traumatization and impairment."[52]

As a normal response to the continuing challenges to their beliefs

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[42] AMERICAN COUNSELING ASSOCIATION, VICARIOUS TRAUMA FACT SHEET #9, *available at,* http://www.counseling.org/docs/trauma-disaster/fact-sheet-9—-vicarious-trauma.pdf ?sfvrsn=2 (last viewed Dec. 20, 2015).

[43] Katie Baird & Amanda C. Kracen, *Vicarious Traumatization and Secondary Traumatic Stress: A Research Synthesis*, 19 COUNSELING PSYCHOL. Q. 181 (2006).

[44] Mark R. Evces, *What is Vicarious Trauma?*, *in* VICARIOUS TRAUMA AND DISASTER MENTAL HEALTH: UNDERSTANDING RISKS AND PROMOTING RESILIENCE, 9, 10 (Gertie Quintangon & Mark R. Evces, eds.) (2015).

[45] Lisa McCann & Larie A. Pearlman, *Vicarious Traumatization: A Framework for Understanding the Psychological Effects of Working with Victims*, 3 J. TRAUMATIC STRESS 131, 133 (1990).

[46] AMERICAN COUNSELING ASSOCIATION, *supra* note 42. R

[47] *Id.*

[48] McCann & Pearlman, *supra* note 45, at 144. R

[49] Baird & Kracen, *supra* note 43. R

[50] *Id*.

[51] *Id*.

[52] Evces, *supra* note 44, at 11. R

and values, individuals experiencing vicarious trauma may exhibit varying symptoms.[53] Some of these symptoms include: denial of clients' trauma, over-identification with clients, no time and energy for oneself, feelings of great vulnerability, experiencing insignificant daily events as threatening, feelings of alienation, social withdrawal, disconnection from loved ones, loss of confidence that good is still possible in the world, generalized despair and hopelessness, loss of feeling secure, increased sensitivity to violence, cynicism, feeling disillusioned by humanity, disrupted frame of reference, changes in identity, world view, and spirituality, diminished self-capacities, impaired ego resources, and alterations in sensory experiences.[54]

C. Understanding Trauma-Informed Practice

The increase in studies on trauma and vicarious trauma, and the various measures taken to mitigate the effects of the two have resulted in a systemic approach to how human services can be delivered to address the concerns of trauma and vicarious trauma simultaneously. "A trauma-informed approach to services or intervention acknowledges the prevalence and impact of trauma and attempts to create a sense of safety for all participants, whether or not they have a trauma-related diagnosis."[55] To be trauma-informed means to be educated about the impact of interpersonal violence and victimization on an individual's life and development."[56] Providing trauma-informed services requires all the staff of an organization to understand the effects of trauma on the people being served, so that all interactions with the organization reduce the possibility of retraumatization and are consistent with the process of recovery.[57] Trauma-informed practice recognizes the ways in which trauma impacts systems and individuals.[58] Becoming trauma informed results in the recognition that behavioral

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[53] *Id*.

[54] Christian Pross, *Burnout, vicarious traumatization and its prevention*, 16 TORTURE 1 (2006).

[55] SAMSHA, *supra* note 8, at 1. R

[56] Denise E. Elliott and Paula Bjelajac et al., *Trauma-Informed or Trauma Denied: Principles and Implementation of Trauma-Informed Services for Women,* 33(4) JOURNAL OF COMMUNITY PSYCHOLOGY, 461-477, 462 (2005).

[57] *Id.*

[58] Whereas vicarious trauma impacts individuals exposed to trauma victims, organizations working with a traumatized population can experience organizational trauma, in which an organization's adaptation to chronic stress can create "a state of dysfunction that in some cases virtually prohibits the recovery of the individual clients who are the source of its underlying and original mission, and damages many of the people who work within it." SANDRA L. BLOOM, & BRIAN FARRAGHER, DESTROYING SANCTUARY: THE CRISIS IN HUMAN SERVICES DELIVERY SYSTEMS 14 (2011). *See also* Shana Hormann and Pat Vivian, *Toward and Understanding of Traumatized Organizations and How to Intervene in Them*, 11(3) TRAUMATOLOGY 159, 160-164 (September 2005).

symptoms, mental health diagnoses, and involvement in the criminal justice system are all manifestations of injury, rather than indicators of sickness or badness – the two current explanations for such behavior.[59] As a result, trauma-informed services and programs are more supportive (rather than controlling and punitive), avoid retraumatizing and punishing those served, and avoid vicarious traumatization of those serving the survivors.[60]

In particular, trauma-informed practice has had a significant impact in the fields of domestic violence,[61] health care, child welfare, law enforcement and judicial administration. As discussed in the next section, trauma-informed practice has also informed the practice of law.

II. The Trauma-Informed Lawyer

The concepts of trauma-informed practice have begun to have a profound effect on attorneys who routinely work with trauma survivors.[62] Particularly for attorneys in practice areas such as domestic vi-

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59 Sandra L. Bloom & Brian Farragher, Restoring Sanctuary: A New Operating System for Trauma-Informed Systems of Care, 1, 7-9 (2013).

60 For example, one model used to accomplish these goals is the Sanctuary Model, a trauma-informed method for changing organizational culture, created by psychiatrist Sandra Bloom. The Sanctuary Model can be described as a "plan, process, and method for creating trauma-sensitive, democratic, nonviolent cultures that are far better equipped to engage in the innovative treatment planning and implementation that is necessary to adequately respond to the extremely complex and deeply embedded injuries that children, adults, and families have sustained." Sandra L. Bloom, *The Sanctuary Model of Organizational Change for Children's Residential Treatment,* Therapeutic Community: The International Journal for Therapeutic and Supportive Organizations 26(1): 65-81, 70-71 (2005). The Sanctuary Model proposes seven characteristics that would result in an organization being trauma informed: a culture of nonviolence, which means committing to safety skills and higher goals; a culture of emotional intelligence, which means to teach and model emotional management skills; a culture of social learning, which involves creating an environment that promotes conflict resolution and transformation; a culture of shared governance, which involves encouraging self-control, self-discipline, and healthy authority figures; a culture of open communication; a culture of social responsibility, which involves building healthy relationships and connections; and a culture of growth and change, which requires restoring hope, meaning and purpose by actively working through loss/trauma. *Id.* at 71.

61 Joshua M. Wilson, Jenny E. Fauci, & Lisa A. Goodman, *Bringing trauma-informed practice to domestic violence programs: A qualitative analysis of current approaches*, 85(6) Am. J. of Orthopsychiatry 586, 587 (2015).

62 *See* Lisa Pilnik & Jessica R Kendall, Office Juvenile Justice and Delinquency Prevention, Identifying Polyvictimization and Trauma Among Court-Involved Children and Youth: *A Checklist and Resource Guide for Attorneys and Other Court-Appointed Advocates* (2012), http://www.ojjdp.gov/programs/safestart/IdentifyingPolyvictimization.pdf. Karen Reitman, Attorneys For Children Guide to Interviewing Clients: Integrating Trauma Informed Care and Solution Focused Strategies (2011); Barbara Glesner Fines & Cathy Madsen, *Caring Too Little, Caring Too Much: Competence and the Family Law Attorney,* 75 UMKC L. Rev. 965 (2007); Lynda Murdoch, *Psychological Consequences of Adopting a Therapeutic Lawyering Approach: Pitfalls and Protecting Strategies*, 24 Seattle U.L. Rev. 483 (2000); Susan Daicoff,

olence, immigration, and child welfare, the principles of trauma-informed practice have altered the way legal services are delivered.[63] In fact, trauma-informed practice can have relevance to all areas of practice, as clients may present with a trauma history whether central to the subject of the representation or not.

Trauma-informed practice can be particularly salient for attorneys because traditionally attorneys are trained to separate emotions from the law in order to competently analyze legal problems.[64] By borrowing trauma-informed techniques developed in the therapeutic context, attorneys are learning to provide more effective representation.[65] Attorneys can learn how to identify trauma, and to adjust their methods of counseling and representation to incorporate an understanding of their clients' trauma history. Attorneys can also help clients identify the need for behavioral health intervention, or help clients secure trauma-informed therapeutic services.[66] Attorneys can also employ methods of self-care to prevent vicarious traumatization. Systemic implementation of these methods form trauma-informed legal practice. Domestic violence legal centers, immigration legal centers, and other public interest legal services offices have become particularly adept at incorporating these practices into daily legal work. This article posits that clinical law professors can and should incorporate this methodology into law school clinics.

The experience of Victoria, the client described at the beginning of this article, is a good example of trauma-informed lawyering at work. First, the law student handling the case was trained to recognize trauma. In other words, the student could recognize that the

Law as a Healing Profession: The "Comprehensive Law Movement", 6 PEPP. DISP. RESOL. L.J. 1 (2006); MARJORIE SILVER, THE AFFECTIVE ASSISTANCE OF COUNSEL: PRACTICING LAW AS A HEALING PROFESSION (2007); Marjorie Silver, *Love, Hate, and Other Emotional Interferences in the Lawyer/Client Relationship*, 6 CLIN. L. REV. 259 (1999); Marjorie A. Silver, *Supporting Attorneys' Personal Skills*, 78 REV. JUR. U.P.R. 147, 148 (2009); MARY MALEFYT SEIGHMAN, ERIKA SUSSMAN, & OLGA TRUJILLO, REPRESENTING DOMESTIC VIOLENCE SURVIVORS WHO ARE EXPERIENCING TRAUMA AND OTHER MENTAL HEALTH CHALLENGES: A HANDBOOK FOR ATTORNEYS, *available at* http://www.nationalcenterdvtraumamh.org/publications-products/attorneys-handbook/ (last viewed Dec. 20, 2015).

[63] Both authors had the opportunity as legal services attorneys to work in family law practices that trained staff in and applied methods of trauma-informed practice.

[64] Parker, *supra* note 2. R

[65] *Id. See also* AMERICAN BAR ASSOCIATION, ABA POLICY ON TRAUMA-INFORMED ADVOCACY FOR CHILDREN & YOUTH (Feb. 10, 2014), http://www.americanbar.org/content/dam/aba/administrative/child_law/ABA%20Policy%20on%20Trauma-Informed%20Advocacy.authcheckdam.pdf; Eliza Patten & Talia Kraemer, *Practice Recommendations for Trauma-Informed Legal Services* (July 2013), *available at* http://www.americanbar.org/content/dam/aba/administrative/child_law/5C_Patten%20Kraemer_Practice%20Recommendations%20for%20Trauma%20Informed%20Legal%20Services.authcheckdam.pdf.

[66] *See* PILNIK & KENDALL, *supra* note 62. R

physical abuse that Victoria had experienced, as well as the knowledge that her children had been sexually abused, were traumatic experiences which would profoundly affect the attorney-client relationship and the nature of the representation, even though the abuse allegations were not directly pertinent to the case. If the law student not been trained in trauma-informed practice, he might have been more dismissive of the client's insistence on telling her trauma story. Instead, the law student exhibited patience and affirmation for the client that ultimately enabled the client to develop a trusting relationship with the law student. Similarly, the law student adjusted his approach to counseling the client and preparing the client for court, based upon the law student's acknowledgement and understanding of the client's trauma experience. Instead of simply preparing the client for the kinds of testimony and evidence that would be requested, the law student took into account how terrifying it was for the client to go to court against her abusive ex-husband. The student also encouraged the client regarding the importance of continuing in therapy, drawing clear lines between the kind of counseling the law student could provide, and support that could be provided by a therapist. Finally, the law student also had opportunities for self-reflection and sharing through supervision to allow him to process the impact of working with a client who had experienced severe trauma.

Rather than waiting until lawyers enter practice to learn these skills, law schools can and should teach trauma-informed lawyering, particularly in the law clinic setting.[67] Teaching trauma-informed lawyering in law school clinics bolsters and builds upon existing approaches to clinical pedagogy. Clinical legal education has traditionally emphasized teaching social justice values, client-centered lawyering and the acquisition of practical lawyering skills,[68] and teaching trauma-informed lawyering reinforces each of these areas. Further, trauma-informed lawyering builds upon existing clinical pedagogical literature on therapeutic jurisprudence, empathy and emotional intelligence, and vicarious trauma.[69] Law school clinics are particularly well-suited to teach trauma-informed lawyering because

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[67] *See, e.g.*, Jill Engle, *Taming the Tigers: Domestic Violence, Legal Professionalism and Well-Being*, 4 TENN. J. RACE, GENDER & SOC. JUST. 1 (2015); Joan Meier, *Teaching Lawyering With Heart*, *forthcoming in* VIOLENCE AGAINST WOMEN (2015), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2685926##.

[68] *See, e.g.,* Stephen Wizner, *Beyond Skills Training,* 7 CLIN L. REV. 327, 338 (2001); David Binder and Paul Bergman, *Taking Lawyering Skills Training Seriously*, 10 CLIN. L. REV. 191 (2003); Katherine Kruse, *Fortress in the Sand: The Plural Values of Client-Centered Representation,* 12 CLIN. L. REV. 369 (2006).

[69] *See, e.g.*, MARJORIE A. SILVER, THE AFFECTIVE ASSISTANCE OF COUNSEL: PRACTICING LAW AS A HEALING PROFESSION (2007).

of the focus on reflective practice, and their capacity to teach law students important practice skills to take into their legal careers.

A. *Teaching Trauma-Informed Lawyering Fits with the Values of Clinical Pedagogy and into Already Existing Clinical Theoretical Areas*

Teaching trauma-informed lawyering in law school clinics furthers the value clinical legal education places on teaching social justice principles and the notion of client-centered lawyering.

1. *Social Justice*

Clinical legal education has always had a social justice focus, in its mission to provide much-needed legal services for the indigent, and also in its goals of exposing law students to the lack of legal services for the poor, and to the limits and realities of the legal system. The first clinics were established and developed in the 1920s and 1930s as a way to supplement traditional, doctrinal classes taught in the Langdellian case method. However, clinical legal education did not really take hold in law schools until the 1960s and 1970s. A crucial event in the development of clinical pedagogy was the establishment of the Council on Legal Education and Professional Responsibility (CLEPR), by William Pincus, Vice President of the Ford Foundation. The mission of the CLEPR was to provide legal services to the poor, and in order to do so, CLEPR funded several law school clinics, significantly affecting legal education by infusing clinical legal education with a social justice purpose.[70]

Although the initial mission of law school clinics was to provide access to legal services for low-income clients, as clinical pedagogy developed, clinics developed the added function of exposing students to the realities of the legal system, and in particular its limitations for meeting the goals of indigent individuals.[71] Teaching trauma-informed lawyering in clinics reinforces the social justice value of clinical education because it causes students to be exposed to the realities and limits of the legal system.[72] Teaching trauma enables students to see, though the experiences of their trauma-affected client, how, for that particular individual, legal doctrines, theories, or the litigation

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[70] *Id.* at 338 ("From the beginning of the clinical legal education movement, experiential learning and skills-training were seen as the means for achieving the justice goal articulated by William Pincus, not as ends in themselves.").

[71] Lauren Carasik, *Justice in the Balance: An Evaluation of One Clinic's Ability to Harmonize Teaching Practical Skills, Ethics, and Professionalism with a Social Justice Mission*, 16 S. Cal. Rev. L. & Soc. Just. 23, 39-40 (2006).

[72] *See, e.g.*, Wizner, *supra* note 68. R

system may or may not work to achieve the client's stated goals.[73] Recognition that the legal system may not always be an effective mechanism of pursuing the client's goals is particularly relevant when the client has experienced trauma. This statement is particularly true in light of the fact that for a traumatized client, court proceedings may run the risk of causing the client to relive or confront the trauma, and court proceedings themselves may cause further trauma to the client.

Additionally, teaching students trauma-informed lawyering, and specifically focusing on the ways in which the current legal system may not be able to meet a client's goals, encourages students to think critically about the legal system as it affects litigants who have been subject to trauma in their lives.[74] By learning about trauma-informed lawyering and thinking critically about the legal system, students will begin to think not only about procedural justice, defined as access to the courts or representation in court, but also about true substantive justice for litigants, a term which "could be perceived to require disassembling the existing power structure in order to precipitate a redistribution of resources."[75] Thinking critically about the legal system, developing strong professional values, and developing an appreciation for the important role that attorneys play in society are all sub-parts of the larger clinical goal of teaching social justice to law students through their clinical work.[76]

The importance of teaching trauma-informed lawyering to clinic students to further the social justice goal of clinics is underscored by the literature on therapeutic jurisprudence, which focuses on the extent to which the law enhances or inhibits the wellbeing of those who are affected by it.[77] The practice of trauma-informed lawyering can be a natural extension of the teachings of therapeutic jurisprudence. Therapeutic jurisprudence is a lens for viewing litigation[78] and concerns itself with the therapeutic and anti-therapeutic goals that flow from legal rules, procedures, and the operation of the legal system.[79]

[73] *Id.* at 351.

[74] Leigh Goodmark, *Clinical Cognitive Dissonance: The Values and Goals of Domestic Violence Clinics, the Legal System, and the Students Caught in the Middle*, 20 J. of Law & Policy 301, 314 (2012) (quoting Sue Bryant & Maria Arias, *Case Study: A Battered Women's Rights Clinic: Designing a Clinical Program which Encourages a Problem Solving Vision of Lawyering*, 42 Wash. U. J. Urb. & Contemp. L. 207, 212-215 (1992)).

[75] Carasik *supra* note 71, at 45 (citing John O. Calmore, "*Chasing the Wind": Pursuing Social Justice, Overcoming Legal Mis-Education, and Engaging in Professional Re-Socialization*, 37 Loy. L.A. L. Rev. 1167, 1175 (2004)). R

[76] Stephen Wizner, *Is Social Justice Still Relevant?*, 32 B.C. L. J. & Soc. Just. 345 (2012) (exploring the social justice mission of law school clinics).

[77] *See, e.g.*, Susan L. Brooks, *Using Therapeutic Jurisprudence to Build Effective Relationships with Students, Clients, and Communities*, 13 Clin. L. Rev. 213 (2006).

[78] David B. Wexler, *Therapeutic Jurisprudence,* 20 Touro L. Rev. 353 (2004).

[79] *Id.*

One of the crucial principles is the emphasis on voice and validation for clients. Pursuant to a therapeutic jurisprudence perspective, achieving voice and validation has special significance and importance for survivors of violence.[80] Survivors need to be accorded a sense of "voice," the ability to tell their side of the story, and "validation," the sense that what they have to say is taken seriously. By acknowledging and honoring the client's trauma experience, lawyers can help give voice to the client's perspective. Therapeutic jurisprudence scholars emphasize that these survivors should be treated with dignity and respect, which will diminish the extent to which they feel coerced and gives them a sense of voluntary choice.[81] Rather than viewing the client's trauma experience as a weakness, a therapeutic jurisprudence approach emphasizes the resilience of the client.[82] Teaching trauma-informed lawyering to clinic students furthers these therapeutic jurisprudence goals and causes students to think more about the meaning of the broader clinical goal of social justice.[83]

2. Client–Centered Lawyering

Teaching trauma-informed lawyering in clinics also reinforces one of clinical legal education's central tenets, the importance of client-centered lawyering. Client-centered lawyering focuses on understanding clients' perspectives, emotions, and values, including the possible effects of prior trauma on a client's decisions and actions.[84] Client-centered lawyering is perhaps the central value in many current law school clinics, particularly in clinics where clients are individual litigants. The goals of client-centered lawyering focus on maintaining respect for a client's decision-making authority within the lawyer-client relationship. In the client-centered lawyering paradigm, the lawyer should remain neutral as to the goals of the representation.[85] Unlike

[80] Carolyn S. Salisbury, *From Violence and Victimization to Voice and Validation: Incorporating Therapeutic Jurisprudence in A Children's Law Clinic*, 17 ST. THOMAS L. REV. 623, 654-55 (2005)

[81] Bruce J. Winick, *Applying the Law Therapeutically in Domestic Violence Cases*, 69 UMKC L. REV. 33, 63 (2000).

[82] Pilar Hernandez & David Gangsei, *Vicarious Resilience: A New Concept in Work with Those Who Survive Trauma*, 46 FAMILY PROCESS 229 (2007).

[83] Closely related to therapeutic jurisprudence is the literature on restorative justice, which focuses on having all of the individuals who have been affected by a particular act come together and agree on how to repair the harm. According to restorative justice principles, the focus of the process is on healing, rather than finding a way to hurt the offender in a way that would be proportional to the victim's hurt. *See* John Brathwaite, *A Future Where Punishment is Marginalized: Realistic or Utopian?* 46 UCLA L. REV. 1727, 1743 (1999).

[84] Kruse, *supra* note 68, at 377 (describing the cornerstones of client-centered lawyering). R

[85] *Id.* at 376.

traditional doctrinal law school classes which focus on appellate court decisions, a clinic with a client-centered philosophy helps the client solve their identified problems, through either legal or non-legal means. The four central tenets of client-centered lawyering can be summarized as follows: 1) it draws attention to the critical importance of non-legal aspects of a client's situation; 2) it cabins the lawyer's role in the representation within limitations set by a sharply circumscribed view of the lawyer's professional expertise; 3) it insists on the primacy of client decision-making; and 4) it places a high value on lawyers' understanding their clients' perspectives, emotions, and values.[86] A lawyer's principal role in a client-centered lawyering model is to help the client solve a problem, not simply to identify and apply legal rules.[87] Teaching trauma-informed lawyering to clinic students in law clinics reinforces all of the main tenets of client-centered lawyering.

Teaching trauma-informed practice as part of client-centered lawyering improves the client's experience of representation, by encouraging students to consider the non-legal aspects of a client's situation, and also places a high value on the law student's understanding of a client's perspectives, emotions, and values. Teaching about the possible effects of trauma on clients encourages students to look at the client outside of the narrow context of litigation, and to consider the other effects of her life experiences. Additionally, trauma-informed lawyering, with its emphasis on the effects of prior trauma, persuades students to look at what the client may be seeking from the representation, and to consider whether the litigation process will achieve that goal, or whether that goal is best achieved by non-legal methods. The student must take into account the effect of the trauma on the client and the effect on the client's current decision-making, even though that decision process may be different from the process that the student is using to make a decision as a legal advocate.

The theory behind client-centered law practice is based on the influence of other social sciences on law, particularly psychology, in which empathy is considered a useful skill for supporting clients.[88] Law students will be better able to incorporate empathy into their interactions with clients if they are trained in trauma. The literature on emotional intelligence and the literature on the clinical pedagogy of teaching empathy focus on the legitimacy of emotions and their

[86] *Id.* at 377.

[87] *Id.* at 376-77 (quoting Binder's textbook).

[88] Emily Gould, *The Empathy Debate: The Role of Empathy in Law, Mediation, and the New Professionalism*, 36-FALL VT. B.J. 23, 24 (2010). *See also* Sarah Buhler, *Painful Injustices: Encountering Social Suffering in Clinical Legal Education*, 19 CLIN. L. REV. 405 (2013).

relevance to our actions and decisions, and also on the need and manner in which the clinical supervisor facilitates a process through which law students interpret their emotional experiences as advocates, a process which will positively affect the representation.[89] Trauma-informed clinic students will better empathize with their clients. Empathy can be a key part of the information-gathering function of a client interview and client counseling.[90] Empathy encompasses several different phenomena: feeling the emotions of another; understanding another's situation or experience; and taking actions based on another's situation.[91] Similarly, the literature regarding teaching empathy to law students in a clinical context explores the concept of "identification." Identification can be defined as taking on the attitudes, behaviors, and perspectives of others.[92] Identification and empathy allow an attorney to "enter" into the emotional state of the client,[93] which provides the attorney with a far more complex understanding of the client and the client's legal needs. With clients in particularly difficult situations, such as clients who have experienced trauma or torture, a student may become overwhelmed by the experiences of suffering and therefore fail to identify and empathize with the client.[94] Teaching law students to identify trauma and its effects on clients will aid in identification with a client in a situation where identification and empathy might otherwise not be possible, and will enable the student to achieve a greater empathy for and understanding of the client's perspectives and needs. Trauma-informed clinic students will achieve greater empathy with a client, and also will use that empathy to adjust the attorney-client relationship or to adjust the litigation strategy.

Teaching trauma-informed lawyering in law clinics will also encourage students to circumscribe their view of their own expertise, emotional understanding and role as law students in the representation, and will encourage students to focus on the primacy of client decision-making as emphasized in the client-centered lawyering model.[95] In the client-centered lawyering model, the lawyer and the client work together as problem-solvers, and the client is able to

[89] *See, e.g.*, Laurel E. Fletcher & Harvey M. Weinstein, *When Students Lose Perspective: Clinical Supervision and the Management of Empathy*, 9 CLIN. L. REV. 135 (2002); Gould, *supra* note 88; *see also,* Silver, *supra* note 69 at 5. R

[90] Fletcher & Weinstein, *supra* note 89. R

[91] John E. Montgomery, *Incorporating Emotional Intelligence Concepts into Legal Education: Strengthening the Professionalism of Law Students*, 39 U. TOL. L. REV. 323, 336-37 (2008).

[92] *Id.*

[93] *Id.* at 142.

[94] Fletcher & Weinstein, supra note 89, at 143. R

[95] Kruse, *supra* note 68, at 377. R

choose what s/he wants from the lawyer and the legal system.[96] A lawyer working in a client-centered model should listen to all of the client's concerns, not just the facts which are deemed legally relevant.[97]

B. *Acquisition of Practical Lawyering Skills: Teaching Trauma-Informed Lawyering Makes Students Better Advocates*

Another central value in clinical pedagogy is that students should acquire practical lawyering skills, by gaining experience in practice and by participating in the lawyer/client relationship.[98] Students are generally more motivated to learn because they are given a tremendous amount of responsibility over the case of a real-life individual, and this responsibility leads to greater identification with the client and other individuals who are similarly situated.[99] Clinics are particularly well-suited for teaching trauma-informed lawyering because students are readily able to put into practice with their clients the trauma-informed lawyering goals of identifying trauma, adjusting the attorney-client relationship, adjusting the litigation strategy, and preventing vicarious trauma.

Clinics are also ideally suited to teaching trauma-informed lawyering to students because clinics are one of the primary vehicles through which law students learn the practical aspects of professional responsibility. The Model Rules of Professional Conduct summarizes the duty of competent representation as follows: "A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation."[100] When representing clients who have survived trauma in the past, the duty of competent representation requires not only legal knowledge and preparation, but also requires a thorough understanding of the ways in which trauma may present in clients, and of the ways prior trauma may affect the attorney-client relationship and the litigation process. Competent representation may also mean acknowledging the limits of the attorney's role, and using mental health professionals as supports when necessary.

Teaching trauma-informed lawyering will cause students to become better, more effective advocates who are able to fulfill the duty

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[96] Jane Stoever, *Transforming Domestic Violence Representation*, 101 KY. L.J. 483, 496 (2012-2013).

[97] *Id.* at 498.

[98] *See, e.g.*, David Binder & Paul Bergman, *supra* note 68, at 194-95, 198. R

[99] *See* Carolyn Grose, *Beyond Skills Training, Revisited: The Clinical Education Spiral*, 19 CLIN. L. REV. 489, 511 (2013) (Grose refers to a student's participation in the lawyer-client relationship as "the heart of clinical pedagogy.").

[100] MODEL RULES OF PROF'L CONDUCT §1.1 (2015).

of competent representation. Through learning about trauma-informed lawyering, law students will become better advocates because they will gain better interviewing skills; more effectively build trust with their clients; and more effectively tackle problems that clients face. Students will also be better prepared for hearings, and better able to prepare their clients for hearings.[101] Students who interview clients may be better able to identify signs of such trauma such as: clients experiencing difficulty telling their story in a linear manner; clients describing violent or upsetting events in a flat, detached matter; clients seeming disassociated or emotionally absent during interviews; and clients not remembering key details of abuse.[102]

Here is another example of how law students are able to implement trauma-informed practice to better represent their clients:

Jane[103] *came to the clinic seeking representation for her two family law cases. She had filed a Protection From Abuse (PFA) petition against her boyfriend, Tom, because he had become physically abusive a few months before, and on the last night they were together, beat her and tried to run her over with his car. Jane had a daughter, Anne. When Anne's father, Mark learned of the abuse by Tom, he didn't give Anne back to Jane for a month after a weekend visit. Jane had to involve the police to get Anne back. Mark filed a custody modification petition asking the court to give him primary physical custody of Anne. Jane filed a contempt of custody petition against him for keeping Anne away from her.*

Jane missed the first two appointments and arrived two hours late for her third appointment with the law student assigned to her case. During her meeting, which was to begin to prepare for the PFA case against Tom, Jane only wanted to talk about Anne and whether she might lose custody. She became very emotional when talking about the custody case. Jane was angry with Mark for keeping Anne for so long and said that she hoped he would be punished by the Judge for what he did. Jane did not remember when the abuse by Tom began, when he tried to run her over, or when she had gone to the police. She also did not remember when Mark had kept Anne from a month, or the date when she was able to get Anne back.

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[101] Parker, *supra* note 2. **R**

[102] See NAT'L CENTER ON DOMESTIC VIOLENCE, TRAUMA & MENTAL HEALTH, SUPPORTING SURVIVORS IN CONTESTED CUSTODY CASES: TRAUMA-INFORMED STRATEGIES FOR BUILDING ON PARENTING STRENGTHS WHERE MENTAL HEALTH IS A FACTOR (March 2014), *available at* http://www.nationalcenterdvtraumamh.org/wp-content/uploads/2014/01/Supporting-Survivors-in-Custody-Cases-April-7-FINAL-v3.pdf.

[103] This case description is based on the experience of a client represented by Professor Haldar's clinic. Names and identifying information have been changed.

Rather than thinking a client is difficult or uncooperative, a student who has been taught trauma-informed lawyering will be able to recognize the preceding characteristics as signs of trauma, and will develop the skills to counteract the specific trauma symptoms which arise during client interviews.[104] These skills include developing mechanisms to: interview and prepare clients' cases with minimal re-traumatization; work with emotional clients more effectively by validating their feelings; focus or re-focus clients who are avoiding talking about a traumatic experience; help clients remember significant details; anticipate and handle clients who are late to an appointment or who miss the appointment entirely; define the role of the legal advocate, as opposed to a therapist or social worker; and build trust with the client. In short, teaching trauma-informed lawyering will allow students to specifically tailor their interviewing and case preparation to the client's individual circumstances, which include past trauma.

During the first meeting with Jane, the law student recalled the guest lecture by an area psychologist regarding trauma and recognized the indicators of trauma in Jane's actions. He told her that both the abuse by Tom and having Anne taken away from her must have been very difficult for her. He told her that during that first meeting, they would talk about what she most wanted to discuss, and then he and Jane together planned a timeline of appointments to get ready for both the PFA hearing and the custody hearing. The law student explained the purpose of each hearing and how the Judge would make a decision in each case. The law student let Jane know what documents she needed to bring to each meeting.

Additionally, the law student was able to use the police report filed when Jane got Anne back to determine when Mark had taken her and returned her. He also looked at Tom's date of arrest and Jane's PFA petition to get a rough timeframe of when the abuse happened, and Jane was able to supplement that information.

During a later meeting to prepare for the custody hearing, Jane revealed that as part of the abuse, Tom had forced her to join him in his drug use. Substance abuse was particularly emotionally difficult for Jane to discuss, because she and Anne's father Mark both had severe addiction issues when they were together, and they both stopped using when Jane became pregnant with Anne. Because the law student had this important bit of information, he was able to inform Jane that it was very common for custody judges to ask litigants to take drug tests, particularly if there is a history of drug abuse. He also discussed with her the importance of continuing to attend her substance abuse meetings,

[104] Parker, *supra* note 2, at 182. R

which served as a support for her in staying drug-free.

The law student went over Jane's direct examination with her several times before each hearing. He stressed the importance of being on time for the hearing, told her exactly who would be in the courtroom, and what each party might say. He emphasized that although she felt very emotional about the events, it was important to remember to answer only the questions asked of her in court. The law student reminded her the day before each time she had to be in court, and would meet her just inside the entrance to the courthouse. The custody judge decided not to modify the order in Jane's custody case with Mark, and the Protection From Abuse judge granted Jane a final protection order.

The enhanced interview skills that students learn when taught trauma-informed lawyering can help to nurture a trusting relationship between the client and the student lawyer. The law student and the client can then analyze risks, review and develop safety plans, and devise legal strategies together. Building this kind of a trusting relationship may help avoid a situation in which a client does not reveal crucial information. In addition to hearings, building a trusting relationship between a client and a law student recognizes the fact that advocating effectively for a client may not always involve an adversarial, court-centered litigation strategy. In fact, any form of litigation may not be the best way for the client to achieve her goals. Encouraging a client to speak as freely as possible about the past trauma, as well as her current experiences, can lead both parties to exchange important information so that they can most productively discuss the next steps to take in a client's case. Students will also be able to more effectively prepare for hearings if they are trained in trauma-informed lawyering. Once students understand which types of events can trigger the trauma of a client, they can work to lessen that potential.[105]

Additionally, teaching trauma-informed lawyering will also cause students to more effectively tackle clients' trauma-related problems. For example, in family law cases, two of the most significant problems with the domestic violence survivor client population are mental health issues, often caused or exacerbated by the trauma and more recent trauma-related triggers, and substance abuse, which may also be cause or heightened by a traumatic situation. A crucial aspect of trauma-informed legal practice is recognizing the limits of lawyers' professional role, and knowing when to help the client seek behavioral health supports. Particularly for law students who are in the midst of

105 *See* Parker, *supra* note 2, at 177-178 (discussing the importance of credible testimony in political asylum cases, where a traumatized client may have difficult expressing emotion). R

cultivating their professional identities, and are still developing their competency at lawyering skills, it is important to underscore their professional boundaries.

An additional important aspect of clinical pedagogy is the importance of teaching students how to integrate being lawyers with the rest of their lives as they move forward as practicing attorneys. Recent research indicates that attorneys exhibited a higher level of vicarious traumatization compared to mental health professionals, at least in part because they felt that they had not received systemic education regarding the effects of trauma in their clients and themselves.[106] If explicitly taught trauma-informed lawyering, law clinic students will be more effectively prepared to handle their own feelings upon hearing their clients' traumatic stories, and will as a result suffer less from vicarious trauma and burnout.[107] Teaching trauma-informed lawyering in clinics creates foundations for students for positive self-care as they pursue and develop their legal careers.

III. The Pedagogy Of Trauma-Informed Lawyering: How to Teach Trauma-Informed Lawyering in Law Clinics

While acknowledging that teaching trauma-informed practice is an important goal, clinical law professors may struggle with how to integrate it into their clinics. This section will first describe four key hallmarks of trauma-informed lawyering: (1) identifying trauma; (2) adjusting the attorney-client relationship; (3) adapting litigation strategy; and (4) preventing vicarious trauma. The following section will give concrete examples of how to teach these hallmarks in law clinics.

A. The Hallmarks of Trauma-Informed Lawyering

The authors have identified four teaching goals that we believe are the key hallmarks of trauma-informed lawyering:

Identifying Trauma. Simply learning to identify trauma can go a long way in making an attorney more effective. Arguably, an attorney's ability to communicate with clients and develop a relationship of trust with clients is critical to attorney competence.[108] An attorney need not be a mental health expert to recognize that what the client is describing, or behavior the client in exhibiting, is indicative of trauma. Unless the law student has a previous professional background in

[106] *See, e.g.*, Andrew P. Levin & Scott Greisberg, *Vicarious Trauma in Attorneys*, 24 Pace L. Rev. 245, 252 (2003).
[107] *Id.* at 251-252.
[108] Fines & Madsen, *supra* note 62. R

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trauma-related practice, law students tend not to be particularly aware of how trauma is defined or presents. A client who has experienced trauma needs to be able to feel safe in the attorney-client relationship, and an attorney who can be both affirming and empathetic to the client will help create that feeling of safety.

Adjusting Attorney-Client Relationship. Once an attorney has recognized that a client has experience with trauma, the attorney can adjust the attorney-client relationship accordingly. Trauma may affect the attorney's ability to get the whole story, and law students need training in these techniques. Because trauma manifests differently in different people, the attorney should be versed in a variety of strategies to work with the client. For example, the client may be very withdrawn, and the attorney will need to help the client gain a sense of trust and safety in order to get necessary information to prepare the case.[109] Another client might be highly emotional, flooding the attorney with a lot of information; the attorney will need to employ strategies to focus the client on key facts pertinent to the representation.[110] Another client may be angry or suspicious, and the attorney will need to put continued focus on transparency and trust.[111] Cultivating these strategies will make the attorney more effective in developing a relationship with clients and handling their cases.

Adapting Litigation Strategy. The client's trauma experience may also change the attorney's litigation strategy in a variety of ways. Court can be overwhelming or frightening to many clients, but a client with a trauma history may have a particularly difficult time coping.[112] Law students need to be introduced to these topics to effectively prepare their clients. To the extent the client needs to testify about the traumatic events, the client may have difficulty telling the story consistently and credibly. The attorney can help the client by making the situation as predictable as possible by de-sensitizing the client by rehearsing.[113] The attorney may make certain adaptations for the client, like making a plan to take a break if the testimony becomes too trying, or enlisting the support of a mental health provider or other support person in preparing for or attending court.[114] Finally, the

[109] Judy I. Eidelson, *Representing Traumatized Clients*, Phila. Bar Assoc. Family Law Section, Nov. 4, 2013.
[110] *Id.*
[111] *Id.*
[112] *See generally* Ann E. Freedman, *Fact-Finding in Civil Domestic Violence Cases: Secondary Traumatic Stress & the Need for Compassionate Witnesses*, 11 Am. U.J. Gender Soc. Pol'y & L. 567 (2003).
[113] Eidelson, *supra* note 109, at slide 13. R
[114] *Id.*

attorney may need to give extra thought to how the client will be able to testify about the traumatic experiences in court.[115] By employing these strategies, the attorney may make court more palatable for the client and simultaneously more successfully advocate for the client's position.

Preventing Vicarious Trauma. Attorneys working with clients who have experienced severe trauma can also take preventive measures to avoid vicarious trauma. The risks of vicarious trauma for attorneys working with survivors of trauma may be even higher than those in other helping professions, because those in the legal profession tend to have higher caseloads,[116] and to not be trained in the dynamics of trauma.[117] Particularly in a high volume practice, with limited resources, attorneys are at a high risk of developing clinically significant symptoms of vicarious trauma.[118] Although it is unlikely that law students in a clinic practice setting will develop vicarious trauma, it is important that they become aware of the risks and prevention measures at the start of their practice experience. One of the most important preventive measures for attorneys is to diversify and manage case load, so that the attorney has the opportunity to work with trauma survivors as well as clients who have not experienced severe trauma, and so the attorney does not become overwhelmed with too many cases.[119] Further, attorneys can create a workplace culture that acknowledges the potential for vicarious trauma. This can include creating spaces for supervision and peer support, and encouraging open communication about the effect of the work.[120]

B. Incorporating the Hallmarks of Trauma-Informed Lawyering as Teaching Goals

This next section will give concrete examples of how to achieve the teaching goals of (1) identifying trauma; (2) adjusting the attorney-client relationship; (3) adapting litigation strategy; and (4) preventing vicarious trauma.

Consider the examples of the clients Victoria and Jane, from the perspective of the clinical professor. The law students who worked

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[115] *Id.*

[116] Levin, *supra* note 106. R

[117] Fines & Madsen, *supra* note 62, at 992. *See also* Yael Fischman, *Secondary trauma in the legal professions, a clinical perspective*, 18 TORTURE 107 (2008). R

[118] Andrew P. Levin et al., *Secondary Traumatic Stress in Attorneys and their Administrative Support Staff Working With Trauma- Exposed Clients*, 199 J. OF NERVOUS & MENTAL DISEASE 946, 953 (2011).

[119] Fines & Madsen, *supra* note 62, at 993. R

[120] *Id.* at 994.

with Victoria and Jane had been introduced to the concepts of trauma-informed practice in clinical seminar. The clinical professor had informed the students at orientation that learning to identify trauma, understand the effect of trauma on clients' behavior, and alter the attorney-client relationship and litigation strategy accordingly, were part of the teaching goals for the clinic. The clinical professor brought in an outside speaker to talk to the class about the dynamics of intimate partner violence, and also brought in a psychologist to discuss the impact of trauma on the brain, and how it may manifest. The clinical professor reinforced these lessons through reflection exercises such as case rounds, journaling, supervision and evaluation. And finally, the clinical professor introduced the concept of vicarious trauma, and educated the law students on how to prevent it, by focusing on creating confidential space to talk about the effect the work and clients had on the students, as well as underscoring the importance of good self care. By incorporating these teaching methods into the clinic, the professor created an environment where clients like Victoria and Jane can feel supported and empowered through the experience of representation by the clinic, and the law students are prepared to be excellent advocates on their behalf.

1. Identifying Trauma

To teach law students to identify trauma, the students must learn the definition of trauma and why it is relevant to the practice area in the clinic. Law students may incorrectly assume that in teaching about trauma, we are asking them to step outside the bounds of their role as attorney; in contrast, the purpose is to enhance their capacity to build an effective attorney-client relationship.[121] In the context of family law clinics, whether the clinic has a specific domestic violence focus or not, identifying trauma can be introduced by contextualizing what we know about the population that relies on family courts to resolve disputes, specifically that there is a high prevalence of family violence.[122] In other clinical settings, there may be other common types of trauma with which clients present; for example in an immigration clinic, there may be high rates of clients who witnessed family members or other individuals be harmed in tragic ways. In a child or family advocacy clinic, there may be many clients who have experienced severe child abuse or neglect.

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[121] Parker, *supra* note 2, at 169. R

[122] Janet Johnson et al., *supra* note 22. The link between child custody decisions and domestic violence is one that has been acknowledged by state legislatures and courts. *See* Naomi R. Cahn, *Civil Images of Battered Women: The Impact of Domestic Violence on Child Custody Decisions,* 44 VAND. L. REV. 1041, 1062 (1991). R

It is important to help the students shape what is meant when we refer to trauma. The word "trauma" is tossed around a lot ("*My favorite tv show is on summer hiatus and I am SO traumatized!*"; "*My child was lost in the department store for 10 minutes and I was so traumatized!*"). Although trauma is subjective to a specific individual's ability to cope, not every bad experience is a traumatic one. And not every client who has experienced trauma carries a diagnosis of post-traumatic stress disorder. Further, in teaching about trauma, there is a risk that students will essentialize clients' experiences, assuming they all share common histories or characteristics. By focusing on the particular commonalities and needs of the population served by the clinic, the professor can guide students toward being alert to relevant information in the client's history and/or experience which may have an effect on the nature of the representation.

To teach students to identify trauma, the professor may elect to bring in a psychiatrist or psychologist to class, who can speak about how trauma presents and how it affects the brain. With some research and preparation, the clinical professor may also elect to teach this information on her own. The outside speaker or the professor can also focus on some of the common ways trauma presents in the population served by the clinic, and suggest or model strategies for working with these types of clients. For some clients the content of the representation will be specific to the trauma experience, such as representation in a protection order matter regarding abuse perpetrated by the opposing party, or representation in a custody matter about child abuse perpetrated by the opposing party. There are also times where the student may have to deduce that a backdrop of trauma is affecting the client's demeanor or ability to relate to the student, such as representation in a child welfare case concerning allegations of mother's mental health issues. With a basic understanding of how trauma may present, the student can develop greater sensitivity toward the client, and be alert to (sometimes subtle) indications that the client has experienced trauma.

Frequently, students have preconceived notions about how a survivor will present; the student expects the client to be forthcoming and compliant in relaying her story. An effective way to teach law students to identify trauma is to incorporate this learning goal into exercises focused on learning interviewing skills. For example toward the beginning of the semester, the authors utilize Laurie Shanks' storytelling exercise to teach students about how difficult it sometimes is for clients to share intimate details of their lives.[123] In this exercise, students

[123] Laurie Shanks, *Whose Story is it, Anyway? – Guiding Students to Client-Centered Interviewing Through Storytelling,* 14 CLIN. L. REV. 509, 516-517 (2008).

are paired in class and then asked to tell a story to each other about something that changed their life; the other student is then charged with telling her partner's story to the rest of the class, and a discussion ensues about the challenges and obstacles of telling someone else's narrative.[124] Although not specifically a trauma-related exercise, it can create a forum to underscore some of the barriers to effective fact gathering with clients who have experienced trauma. As Psychologist Judy Eidelson has hypothesized, some of these internal barriers for the interviewer may include fear of what we might have to hear, fear of not knowing how to respond, fear of losing composure, our own moral judgments, and idealization of the trauma survivor followed by disillusionment.[125]

The law student should ensure that her representation creates no additional harm.[126] Clients' trauma history may affect representation by making it difficult to get the whole story (because of avoidance) and to get a consistent story (traumatic memories get stored in the brain in disconnected ways).[127] In addition to disruptions to the client's memory of the relevant events, the client may experience shame, hopelessness, traumatic flashbacks and/or distrust in being asked about the traumatic events.[128] Because trauma presents differently, it is helpful to make students aware that it is quite common for a trauma survivor to present as withdrawn and with flat emotion, *or* to flood with an overload of information, *or* to be angry and/or suspicious.[129] Through hypotheticals or role plays, the professor can brainstorm with the students effective strategies for working with each type of client. For example, with the withdrawn client, the client may feel more in control of the interview if the law student affirms how difficult it is to share the information.[130] With the flooding client, it can be valuable to be upfront and transparent about the goals and focus of the interview.[131] With the angry or suspicious client, it can be beneficial to validate the client's frustration while not getting defensive.[132]

All of the above teaching strategies can be reinforced throughout the students' work in the clinic through supervision and reflection. The student may need help or feedback around why a particular client interview did not go as smoothly as planned, or assistance with

[124] *Id.* at 518-526.
[125] Eidelson, *supra* note 109. R
[126] SEIGHMAN ET AL., *supra* note 63, at 5., at 5.
[127] Eidelson, *supra* note 109, at slide 3. R
[128] *Id.*
[129] *Id.* at slides 6-11.
[130] *Id.* at slide 7.
[131] *Id.* at slide 9.
[132] *Id.* at slide 10.

strategizing how to most effectively handle a particularly challenging client interview. Not every student will immediately draw the connection between the lessons learned about trauma in class and a client's particular behavior. For example, the student may feel frustrated by a client's repeated cancellation of appointments, or unwillingness to talk about key events in her history. By introducing trauma-informed practice early, the clinical professor can redirect the student to these lessons. In the authors' clinics, we frequently revisit how a client's trauma history may be affecting the law student-client relationship through supervision and case rounds.

2. *Adjusting the Attorney Client Relationship*

Once students learn to identify trauma in their clients, the next step is to enable the student to make adjustments to their strategy for building an attorney-client relationship. As mentioned above, an outside speaker or the clinical professor can teach students about how trauma or indicators of trauma may manifest in clients. In the family law context, both Professor Katz and Professor Haldar bring in outside speakers from a local domestic violence agency, who can talk about the dynamics of domestic violence. These speakers introduce the students to basic concepts like the idea that domestic violence is about power and control,[133] and that there is a cycle of abuse.[134] Without this backdrop, it can be hard for students to understand why their clients behave in certain ways: *Why did she decide to drop this protection order?*[135] *Why didn't she show up to court, I thought this case was important to her!*[136]

Once students are informed about the effects their clients' trauma experience may have on the client's behavior, the clinical professor can help the students develop strategies for working with these clients. Such strategies can be integrated into lessons on client counseling through hypotheticals or simulations, as well as addressed through supervision and reflection. Because trauma presents differently in different clients, students need to be versed in a wide array of strategies. Students should learn that working with clients with trauma experience requires investing extra time in the attorney-client relationship, perhaps scheduling more in-person meetings than might otherwise be usual practice, and being particularly patient and consistent with the

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133 *See generally* LENORE E. WALKER, THE BATTERED WOMAN (1979).

134 *Id.*

135 James C. Roberts, Loreen Wolfer & Marie Mele, *Why Victims of Intimate Partner Violence Withdraw Protection Orders*, 23 J. FAM. VIOL. 369 (2008).

136 Avoidance or withdrawal are common ways for clients' trauma to manifest. *See* Eidelson, *supra* note 109, at slides 6-7. R

client. Student can also help the client identify and acknowledge how the trauma experience impacts their interactions with their law student, the opposing party or the judge. Transparently engaging the client in developing solutions can be empowering to the client and lays a strong foundation for a meaningful attorney-client relationship.[137] The student can also become versed in contemplating non-legal solutions with the client, such as referrals to trauma-informed therapy, connections to other social services or supports, or reliance on trusted family or friends.

Clinical professors should be aware that students, just like clients, may also present with their own trauma history. Working with particular clients may present triggers for certain students. While this will be addressed further in the discussion of vicarious trauma in Section III. B. 4., infra, the clinical professor can help students be mindful that the experience of listening to someone else's trauma history is not neutral. The students can be encouraged to be reflective with regard to their own reactions and responses to clients.

3. Adapting Litigation Strategy

Preparing a client with trauma experience for court requires particularized strategies which law students can learn through a clinic. The experience of going to court in and of itself can be re-traumatizing, particularly because the trier of fact may not know the client has a trauma history, or may not be aware of how trauma presents. To the extent that the client may have to testify about the traumatic events, many triers of fact might assume that if something really horrible happened that the client will be able to testify about it with great specificity.[138] In contrast, clients with trauma experience can make terrible witnesses for a variety of reasons.[139] First, because the brain stores memories in mismatched ways, the client may be unable to present a linear narrative.[140] Second, the client may not remember key elements of what occurred; while this may make a trier of fact question client's credibility, it is a normal trauma reaction.[141] Third, a client's emotions or lack thereof may unerve or misguide the trier of

[137] SEIGHMAN ET AL., *supra* note 63, at 7.

[138] Joan Meier, *Symposium: Domestic Violence, Child Custody & Child Protection: Understanding Judicial Resistance And Imagining Solutions*, 11 AM. U. J. GENDER SOC. POL'Y 657, 662 (2003) ("The failure of many courts to apply new understandings of domestic violence in cases concerning custody actually contrasts sharply with the demonstrable increases over the past ten years in judicial awareness and sensitivity to domestic violence in more standard 'domestic violence' cases, such as civil protection orders or criminal prosecutions.").

[139] Parker, *supra* note 2, at 171. R

[140] Eidelson, *supra* note 109. R

[141] Parker, *supra* note 2, at 171. R

fact: the client may appear with a flat affect; or the client may want to tell the full story in a rush of hysterical emotion; or the client may appear angry (thus making her seem like the aggressor) or the client may simply disassociate and not be able to articulate what happened at all.[142]

Extra time spent on preparation can go a long way in making the litigation process palatable for clients with trauma experience. The student can spend extra time preparing the client for what to expect in the courtroom, reviewing details as mundane as where everyone will sit or stand, to what types of questions will be asked. The more the experience of court can become normalized and predictable for a client, the more likely they will be able to cope. In addition, because constantly re-telling the story of the traumatic events can be re-traumatizing for the client, dividing the preparation into shorter sessions can help minimize the risk of re-traumatization.[143]

Students can utilize extra preparation time to work on mental safety-planning with the client. For example, the student can work with the client around how they will handle being asked difficult questions, or where to focus their energy when the opposing party is talking. The student and client can set up a safety signal, whereby the student can ask for a break in the testimony should it become too overwhelming for the client. Allowing the client to be an active participant in planning for how to handle going to court can help empower the client and normalize the experience of the court hearing.

The student can spend extra time preparing the client for the worst possible case outcomes (e.g. *The worst thing that may happen is that the judge grants his petition for shared custody*). Being able to visualize the possible results will help normalize the experience of court.

Finally, although difficult, students can seek to educate the trier of fact about dynamics of trauma through the litigation process. Some resources exist for training judges in a more systemic manner.[144]

4. *Preventing Vicarious Trauma*

Perhaps the most crucial aspect of the pedagogy of teaching trauma- informed lawyering in law clinics, and certainly the aspect that students have the greatest need to carry forward with them in their legal practice, is the awareness of vicarious trauma and the need

[142] Eidelson, *supra* note 109. One client in Professor Katz's clinic, after repeated questioning in court about the history of intimate partner violence between the parties simply blurted out "he has a hand problem!" (meaning 'he puts his hands on me'). R

[143] Parker, *supra* note 2, at 176. R

[144] SAMSHA, *supra* note 8. R

to take preventive measures against its effects. While students may not be likely to experience vicarious trauma in their clinical work, it is important that they learn about the risks, and are able to implement preventive measures starting with their clinical legal work. Preventive measures can be implemented in a number of ways. First, in the authors' clinical courses, the possibility and effects of vicarious trauma are explicitly taught and the authors are each transparent with their students about the preventive measures that are being implemented. When new students begin, as mentioned previously, a psychologist speaks with the students about the effects of trauma on clients, but also discusses the issue of vicarious trauma and how to identify vicarious trauma symptoms and also to protect oneself against vicarious trauma. Students read material about the effects of trauma and the effects of vicarious trauma on professionals who work with trauma survivors, and discuss the effects of vicarious trauma in class.[145]

It is also possible and crucial to consider vicarious trauma when structuring clinical courses. One of the best ways to prevent vicarious trauma is balance and limit caseloads.[146] For example, cases should be distributed among students such that the cases involving clients with significant trauma histories are evenly distributed among the students. In Professor Haldar's clinic, where students handle both Protection From Abuse and custody cases, students are assigned both kinds of cases to increase the chance that each student will have at least a few clients who have not recently experienced traumatic events. Thus, every effort is made to ensure that no one student will have only clients who have recent trauma histories, and this balance is a significant factor to protect against vicarious traumatization.

Another recognized prevention technique is to create safe space for practitioners to talk about the effects of working with their clients with trauma histories on a regular basis.[147] In a law school clinic, this can be accomplished through supervision and reflection, and through effective use of case rounds. Both Professor Haldar and Professor Katz ask students to reflect upon vicarious trauma-related topics specifically in their journal assignments. The journal entries call for students to think specifically about whether and how they are being

[145] In addition to journal assignments, sample assignments might include role playing a client interview session when a client discusses a traumatic past event or reading articles about the effects of vicarious trauma in the therapy context and discussing in class the similarities and differences in the legal context.

[146] T. Bober and C.D. Regehr, *Strategies for Reducing Secondary or Vicarious Trauma: Do They Work?*, 6 Brief Treatment and Crisis Intervention 1-9, 7 *available at* http://dx.doi.org/10.1093/brief-treatment/mhj001 (last viewed Dec. 20, 2015).

[147] Barbara Dane, *Child Welfare Workers: An Innovative Approach for Interacting with Secondary Trauma,* 36 (1) J. of Soc. Work Educ., 27, 34-35 (2000).

affected by their clients' trauma histories, and whether they are experiencing vicarious trauma symptoms.

In clinics, students should be taught explicit strategies to prevent vicarious trauma that they can carry forward with them into their legal practices. One very effective way to teach students about preventing vicarious trauma is to encourage good self-care and model good self-care. Self-care, in the sense of setting appropriate boundaries between the advocate and the client, is recognized to be a protective factor against vicarious trauma.[148] Sandra Bloom divides self-care into several components: personal physical; personal psychological; personal social; personal moral; professional; organizational/work setting; societal.[149] In the beginning of the semester, along with a discussion of vicarious trauma, clinical professors may choose to encourage their students to develop their own self-care plans, incorporating all of the different components of self-care. In case rounds and supervision, students and the professor can refer back to these self-care plans as needed, especially when working with clients with trauma histories.

Clinical professors may also find it helpful to themselves model good self-care techniques for students. For instance, professors can be transparent about making sure they themselves get to exercise regularly, or about using mental health counseling if needed. Specific discussion of mental health services, and of their availability, may also help students to avoid the effects of vicarious trauma, as knowledge of mental health services is a protective factor.[150]

Although not strictly vicarious trauma, it is also important to note here that students often come to our clinics with their own trauma histories; in fact, it is often a student's own trauma history which motivates them to enroll in the clinic to assist clients with similar issues. Of course, working with clients with trauma histories can be triggering for students with their own trauma histories. A crucial aspect of the

[148] Prof. Katz gives the following prompt: *Vicarious trauma, also sometimes called compassion fatigue or secondary trauma, is a term for the effect that working with survivors of trauma may have on counselors, therapists, doctors, lawyers and others who directly help them. Vicarious traumatization refers to harmful changes that occur in professionals' views of themselves, others, and the world, as a result of exposure to the graphic and/or traumatic experiences of their clients. Vicarious trauma occurs in someone who is not the primary person experiencing the trauma. Vicarious trauma happens when a secondary person is exposed to the original victim or offender, likely in the course of their profession.*

In the practice of family law, our clients share some of the most painful and intimate details of their lives. Please use this journal entry to reflect on how you manage your reactions to these stories, and coping mechanisms you are developing to maintain balance as you move through this work.

[149] Sandra L. Bloom, *Caring for the Caregiver: Avoiding and Treating Vicarious Traumatization, in* SEXUAL ASSAULT: VICTIMIZATION ACROSS THE LIFESPAN – A CLINICAL GUIDE 459, 466-467 (A.P. Giardino, E. M. Datner, and J.B. Asher eds.) (2003).

[150] Parker, *supra* note 2, at 178, 198. **R**

pedagogy of trauma-informed lawyering consists of acknowledging for law students that they may have their own trauma histories that have an effect on them as they proceed in their legal careers, particularly in working with clients with trauma histories. It is important to create a space for students to talk about and/or reflect on their own trauma experience as needed, as they proceed in working with clients with trauma histories.

Conclusion

As this article explains, teaching trauma-informed lawyering is a critical aspect of law students' education in the clinical legal educational setting, particularly in clinics which focus on practice areas where clients' trauma experiences are the direct subject of the representation. This article is not meant to be an exhaustive treatise on how to teach these subjects in law school clinics. Rather the message is simple: a little knowledge about trauma goes a long way in helping students adjust their practice skills to competently and zealously represent clients who have experienced trauma. By implementing the four hallmark teaching goals of trauma-informed lawyering, clinical law professors can not only enhance the advocacy of their students while in the clinic, but also convey lasting skills which will set their students on the path to being excellent lawyers throughout their careers.

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Andrew P. Levin

Scott Greisberg

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Vicarious Trauma in Attorneys

Andrew P. Levin, MD†
Scott Greisberg, MA‡

Abstract

Although secondary trauma and burnout have been the subject of investigation in emergency workers and mental health professionals, no systematic studies have evaluated these responses in attorneys. Growing out of our collaboration with the Pace Women's Justice Center, we designed a survey to assess the presence of secondary trauma responses and symptoms of burnout in attorneys working with victims of domestic violence and criminal defendants. Compared with mental health providers and social services workers, attorney's surveyed demonstrated significantly higher levels of secondary traumatic stress and burnout. This difference appeared related to the attorneys' higher caseloads and lack of supervision around trauma and its effects. These findings create a starting point for further study into attorney responses and methods of ameliorating the stress of work with traumatized clients.

Introduction

Over the last generation and particularly following the inclusion of Posttraumatic Stress Disorder (PTSD) in the 1980 *Diagnostic and Statistical Manual of Mental Disorders—Third Edition (DSM-III)*,[1] the mental health field has witnessed an explosion of interest in trauma and its effects. A decade after *DSM-III* the mental health community began to recognize the effects of work with the trauma victim on the helping profes-

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† Dr. Levin is Assistant Clinical Professor of Psychiatry at New York Medical College, Valhalla, NY and Medical Director Westchester Jewish Community Services. Address correspondence to: Andrew P. Levin, MD, 141 North Central Avenue, Hartsdale, NY 10530. Email inquiries to: ALevin@wjcs.com

‡ Mr. Greisberg is staff therapist at Westchester Jewish Community Services, Hartsdale, NY.

1. American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorders 236-38 (3d ed. 1980).

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sionals themselves.[2] These phenomena have been labeled "Compassion Fatigue,"[3] "Secondary Traumatic Stress (STS),"[4] and "Vicarious Traumatization (VT)."[5]

Figley summarized the STS formulation as the "cost of caring," manifested by symptoms similar to those of PTSD including re-experiencing the event witnessed, avoidance of recollections of the event, numbing in affect and function, and persistent arousal.[6] In contrast, "Vicarious Traumatization," as conceptualized by McCann and Pearlman, develops as a consequence of the relationship with the traumatized client during long-term individual psychotherapy.[7] In addition to internalizing accounts of the patient's victimization with resultant effects on memory and internal imagery, the trauma therapist experiences a disruption in central schemas including assumptions about the world, trust and dependency, safety, power, independence, esteem, and intimacy.[8] Both STS and VT degrade the professional's ability to perform her task and affect functioning in daily life beyond the job.

Quantitative research efforts on the secondary effects of trauma have focused predominantly on workers who have brief contact with the victim, e.g., disaster workers,[9] firefighters,[10] and relief workers,[11] and to a lesser extent on professionals with prolonged contact with victims, e.g., therapists.[12] These studies

2. *See* IL McCann & Laurie Anne Pearlman, *Vicarious Traumatization: A Framework for Understanding the Psychological Effects of Working with Victims,* 3 J. TRAUMATIC STRESS 131 (1990); *see also* Charles R. Figley, *Compassion Fatigue as Secondary Traumatic Stress Disorder: An Overview, in* COMPASSION FATIGUE: SECONDARY TRAUMATIC STRESS DISORDERS IN THOSE WHO TREAT THE TRAUMATIZED 1 (Charles R. Figley ed., 1995).

3. *See* Figley, *supra* note 2.

4. *Id.*

5. *See* McCann & Pearlman, *supra* note 2.

6. *See* Figley, *supra* note 2.

7. *See* McCann & Pearlman, *supra* note 2.

8. *Id.*

9. Robert J. Ursano et al., *Posttraumatic Stress Disorder and Identification in Disaster Workers,* 156 AM. J. PSYCHIATRY 353 (1999).

10. Dieter Wagner et al., *Prevalence of Symptoms of Posttraumatic Stress Disorder in German Professional Firefighters*, 155 AM. J. PSYCHIATRY 1727 (1998).

11. Cynthia B. Eriksson et al., *Trauma Exposure and PTSD Symptoms in International Relief and Development Personnel,* 14 J. TRAUMATIC STRESS 205 (2001).

12. Joan Laidig Brady et al., *Vicarious Traumatization, Spirituality, and the Treatment of Sexual Abuse Survivors: A National Survey of Women Therapists,* 30 PROF. PSYCHOL.: RES. & PRAC. 586 (1999); Laurie Anne Pearlman & Paul S. Mac

have identified risk factors for developing STS and VT related to the nature of the trauma exposure as well as trait factors in the professional.[13] Among emergency workers event-related risks for development of STS symptoms included identification with the dead after a disaster,[14] degree of exposure and diminished social supports,[15] number of distressing missions and length of service in firefighters,[16] and work with child victims.[17] In addition to the effects of caseload on mental health professionals,[18] a prior personal history of trauma,[19] and prior treatment for a psychological disorder[20] increased the risk of secondary trauma symptoms. Therapists with less experience were also more vulnerable to VT, with lack of supervision creating additional risk.[21]

A small number of studies have focused on professionals in the legal arena.[22] Follette et al., found that police officers surveyed reported significantly greater symptoms of psychological distress (anxiety, depression, dissociation, sleep problems) and PTSD symptoms than mental health professionals.[23] Although

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Ian, *Vicarious Traumatization: An Empirical Study of the Effects of Trauma Work on Trauma Therapists*, 26 PROF. PSYCHOL.: RES. & PRAC. 558 (1995); L.J. Schauben & P.A. Frazier, *Vicarious Trauma: The Effects on Female Counselors of Working with Sexual Violence Survivors,* 19 PSYCHOL. WOMEN Q. 49 (1995); Tracy Woodard Meyers & Thomas A. Cornille, *The Trauma of Working with Traumatized Children, in* TREATING COMPASSION FATIGUE 39 (Charles R. Figley ed., 2002); D.F. Wee & D. Myers, *Stress Response of Mental Health Workers Following Disaster: The Oklahoma City Bombing, in* TREATING COMPASSION FATIGUE 57 (Charles R. Figley ed., 2002).

13. *See* sources cited *supra* notes 9-12.

14. Ursano et al., *supra* note 9, at 358.

15. Eriksson et al., *supra* note 11, at 210-11.

16. Wagner et al., *supra* note 10, at 1731.

17. Figley, *supra* note 2, at 16.

18. *See* Brady et al., *supra* note 12; *see also* Pearlman & Mac Ian, *supra* note 12.

19. Brady et al., *supra* note 12, at 387.

20. Figley, *supra* note 2, at 15-16.

21. Pearlman & Mac Ian, *supra* note 12, at 561-64.

22. *See* Victoria M. Follette et al., *Mental Health and Law Enforcement Professionals: Trauma History, Psychological Symptoms, and Impact of Providing Services to Child Sexual Abuse Survivors*, 25 PROF. PSYCHOL.: RES. & PRAC. 275 (1994); *see also* D. Brooke, *Impairment in Medical and Legal Professionals*, 43 J. PSYCHOSOM. RES. 27 (1997); Len Klingen, *The Mentally Ill Attorney*, 27 NOVA L. REV. 157 (2002).

23. Follette et al., *supra* note 22, at 279-81.

studies have characterized substance abuse[24] and mental illness[25] among attorneys under stress, there are no studies addressing secondary trauma symptoms or the effects of work with traumatized clients.

Despite the lack of empirical work on secondary trauma responses among attorneys, the "clinical" law literature has raised issues regarding the responses of attorneys to work with difficult and traumatized clients, particularly counter-transference and identification with the victim.[26] Allegretti calls for increased training of attorneys in managing the "face-to-face, long-term, and intensely personal relationship" that develops between client and attorney.[27] An understanding of this principle has recently entered into "clinical" curricula for law students. For example, at Pace Law School the clinical coursework has included readings such as Groves' article "Taking Care of the Hateful Patient,"[28] and "The Difficult Legal Client," co-authored by a psychiatrist.[29]

In addition to symptoms of secondary trauma, helping professionals have long been known to experience "burnout."[30] Burnout develops gradually due to the accumulation of stress and the erosion of idealism resulting from intensive contact with clients.[31] The syndrome is characterized by physical symptoms such as fatigue, poor sleep and headaches, emotional changes including anxiety, irritability, depression and hopelessness, and behavioral manifestations including aggression, cynicism, and substance abuse,[32] leading to poor job performance, deterioration in interpersonal relationships, and significant at-

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24. Brooke, *supra* note 22.

25. Klingen, *supra* note 22.

26. *See* Joan S. Meier, *Notes from the Underground: Integrating Psychological and Legal Perspectives on Domestic Violence in Theory and Practice*, 21 HOFSTRA L. REV. 1295 (1993).

27. Joseph Allegretti, *Shooting Elephants, Serving Clients: An Essay on George Orwell and the Lawyer-Client Relationship*, 27 CREIGHTON L. REV. 1, 8 (1993).

28. J.E. Groves, *Taking Care of the Hateful Patient*, 298 NEW ENG. J. MED. 883 (1978).

29. J. Barrette & N. Kaye, *The Difficult Legal Client*, 94 CASE & COMMENT 1 (1989).

30. B.A. Farber & L.J. Heifetz, *The Process and Dimensions of Burnout in Psychotherapists*, 13 PROF. PSYCHOL. 293 (1982).

31. *Id.* at 298.

32. Figley, *supra* note 2, at 12-13.

trition among professionals working with traumatized populations.[33]

In collaborating with domestic violence and criminal attorneys the author (APL) informally uncovered varying degrees of secondary trauma and burnout symptoms. To explore these phenomena further, we undertook a preliminary questionnaire survey to determine the presence of these symptoms among attorneys working with traumatized clients, compare those responses to other professionals, and identify possible risk factors.

Overview of the Study

Participants were drawn from a variety of legal and mental health agencies. Attorneys were recruited from agencies specializing in domestic violence and family law as well as legal aid criminal services. The mental health professionals, recruited from community agencies, fell into two groups: mental health professionals providing treatment and social services workers providing concrete and case management services to the mentally ill.

Participants completed a survey that combined the Secondary Trauma Questionnaire (STQ) developed by Motta, et al.,[34] and items assessing burnout adapted from Figley.[35] Secondary trauma questions assessed three domains: 1) re-experiencing the trauma of the person who had been traumatized in imagery, flashbacks, and nightmares; 2) avoidance of reminders of those traumas; and 3) symptoms of increased arousal including disturbed sleep, increased startle, and irritability. The burnout items included low energy, depressed mood, a feeling that work with the traumatized clients was taking over too much of life, feedback from friends that the subject had lost interest in pleasurable activities, and negative perceptions of self and work function. The survey also recorded personal and work data including number of trauma clients encountered within the last year, personal history of trauma, and history of prior treatment.

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33. *Id.*

34. R.W. Motta et al., *Initial Evaluation of the Secondary Trauma Questionnaire*, 85 PSYCHOL. REP. 997 (1999).

35. Figley, *supra* note 2, at 13-14.

Summary of Study Outcomes

The three groups—attorneys, mental health providers, and social service workers—were of similar age and experience, and were predominantly female. The groups also did not differ in history of childhood trauma or prior history of treatment for emotional problems but the attorneys showed a higher rate of adult trauma. Caseload of traumatized clients during the prior twelve months was significantly higher for attorneys compared to both mental health providers and the social services workers. More than half the attorneys surveyed encountered twenty-one or greater trauma clients during the prior year whereas almost 70% of the other professionals averaged twenty or fewer clients in the same time period.

Survey results demonstrated that attorneys experienced more symptoms of secondary trauma and burnout compared with both comparison groups. In addition, the attorneys were consistently higher on each of the subscales of secondary trauma. Translating these scores into symptoms, the attorneys demonstrated higher levels of intrusive recollection of trauma material, avoidance of reminders of the material and diminished pleasure and interest in activities, and difficulties with sleep, irritability, and concentration.

Subjects in all three groups with a history of mental health treatment had significantly higher scores for secondary trauma and burnout. Prior childhood and adult trauma history were not predictive for any of the subjects studied. For all subjects (including the attorneys) increased client load predicted higher scores on secondary trauma and burnout.

During the course of planning and completion of the study the author (APL) heard informally from attorneys regarding their experiences. One attorney at a legal aid office representing victims of domestic violence wrote:

> It actually feels good to hear that I am not the only one who feels depressed and helpless and that these issues are worth studying. Fortunately, the stress has decreased with experience and time for me, but I still have vivid memories of quite traumatic experiences representing victims of domestic violence who were so be-

trayed that it was difficult to continue to have faith in humankind.[36]

Attorneys working with victims frequently reported that they had become over-extended with their clients including contacts after hours and becoming mired in assisting them in securing housing, benefits, etc. Another common theme was the frustration in representing women who appeared passive and unable to utilize the resources provided. Attorneys drew on the paradigm of "Battered Women Syndrome"[37] to assist in understanding these behavioral patterns. Overall they attributed their secondary trauma responses to lack of preparation in understanding the clients and lack of a regular forum to discuss and ventilate regarding their own feelings. Several noted that frustrations encountered with the legal and governmental systems required to assist these clients were a significant contributor to their distress, e.g., high caseloads, hostile courts and law enforcement personnel, indifferent administration and supervisors.

Discussion and Future Directions

The major finding of our study was that attorneys working with traumatized clients experience significant symptoms of secondary trauma and burnout. Second, the attorney group demonstrated higher symptom scores in all areas of secondary trauma (intrusion, avoidance, and arousal) and burnout compared to mental health providers and social services workers. Number of clients was moderately positively correlated with symptoms. This is consistent with other findings that the intensity of exposure is a risk factor for secondary trauma.[38]

In contrast, adult and child trauma were not related to intensity of response among the professionals in our study. Previous studies have not been inconsistent, identifying prior trauma as a risk factors in some samples[39] but not others.[40] On the

36. Anonymous survey response (on file with author).

37. LENORE E. WALKER, THE BATTERED WOMAN SYNDROME.

38. *See* Wagner et al., *supra* note 10; *see also* Eriksson et al., *supra* note 11; Pearlman & Mac Ian, *supra* note 12.

39. *See* Brady et al., *supra* note 12; *see also* J.R.T. Davidson. & J.A. Fairbank, *The Epidemiology of Posttraumatic Stress Disorder*, *in* POSTTRAUMATIC STRESS DISORDER: DSM-IV AND BEYOND (J.R.T. Davidson & E.B. Foa eds., 1993).

other hand, attorneys, mental health providers, and social services workers with a prior history of mental health treatment all scored consistently higher on secondary trauma and burnout.

As to the origin of the increased secondary trauma and burnout responses among the attorneys, higher case loads alone may explain the difference. The preliminary nature of our study requires a follow-up to indicate if other factors play a role in the difference. Attorneys responding at the "Think Tank" felt that in addition to their high case loads the lack of systematic education regarding the effects of trauma on their clients and themselves and the paucity of forums for regular ventilation were significant contributors to development of secondary trauma and burnout. Even among mental health professionals with advantages of education and supervision secondary trauma responses are common.[41]

Both the data and the informal responses from attorneys point toward the necessity, as stressed by Silver, of developing educational programming for law students and attorneys regarding the effects of trauma on their clients and themselves.[42] Future research should focus on clarifying the extent of and risk factors for secondary trauma in attorneys, judges, and allied professions. This work should form the basis for identifying the most effective interventions for reducing secondary trauma among legal professionals in order to enhance the delivery of legal services to victims of trauma.

40. *See* Schauben & Frazier, *supra* note 12; *see also* Follette et al., *supra* note 23.

41. Figley, *supra* note 2, at 15; Schauben & Frazier, *supra* note 12, at 61-64; Meyers, *supra* note 12, at 39-53; Wee & Meyers, *supra* note 12, at 57-83.

42. Marjorie A. Silver, *Love, Hate, and Other Emotional Interference in the Lawyer/Client Relationship*, 6 CLINICAL L. REV. 259, 305-13 (1999).