



Trauma-Informed Lawyering

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Trauma-Informed Care Principles

Understanding Trauma and its Impact

Promoting Safety

Ensuring Cultural Competence

Supporting Control, Choice, and Autonomy

Sharing Power and Governance

Integrating Care

Healing Happens in Relationship

Recovery Occurs

Trauma-Informed Lawyering

Article

Developmentally and Trauma-Sensitive Courtrooms

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Abstract

Courtrooms in the United States whether family court or criminal court fall far short of being either developmentally or trauma sensitive. While there is growing recognition that vulnerable child witnesses are at risk of retraumatization by court procedures and some judges have used their discretionary powers to render courtrooms less toxic to children, the system was designed by adults for adults, and certainly not for children. The court process especially in criminal trials does not typically take into account the developmental constraints of children nor do they fully understand trauma in children and the risks to testifying child witnesses. Humanistic psychology has long stood for social justice and compassion toward our most vulnerable humans, especially children, but the long and slow-to-change traditions of the court system in the United States creates an environment that is inhospitable to children and even older victims as illustrated by the low rate of prosecutions in rape cases. This article outlines the distressing conditions that await child victims/witnesses in this country in comparison with other developed countries and an innovative, out-of-the box solution that does not interfere with the rights of the accused.

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ORIGINAL ARTICLE



Implementing Trauma-Informed Practice in Juvenile Justice Systems: What can Courts Learn from Child Welfare Interventions?

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Abstract

Many youth entering juvenile court systems show manifestations of psychological trauma. Focusing on rural juvenile courts, systems with greatly underserved and under-researched populations, we assessed practices, barriers, and recommendations around trauma-informed practice, an evidence-based approach for addressing trauma and reducing delinquent behavior and recidivism. As part of a pilot trauma-informed practice initiative at four rural Michigan juvenile courts, semi-structured qualitative interviews were conducted with 15 court staff, including probation officers, referees, judges, and on-site clinical therapists. Respondents expressed an ideological affinity for trauma-informed practice, describing growing inclinations to rely on referral-making around mental health treatment *in lieu* of traditional (punitive) sentencing. Key implementation barriers included limited access to local mental health resources, insufficient buy-in from K-12 schools, government, and police, and concerns over professional abilities/boundaries. Respondents recommended additional technical trainings on trauma-informed practice and cross-disciplinary education for clients' families and external stakeholders.

Keywords Delinquency · Intervention · Mental health · Qualitative · Recidivism · Rural

What About Adult Defendants?



- Trauma = exposure to a potentially traumatic event that is beyond a typical stressor
- 3.6% of adults in the United States had PTSD in the past year
- The lifetime prevalence of PTSD is 6.8%
- Rates may be higher based on several sociodemographic factors.
- **Alley and Alley (2020) found that approximately 75% of incarcerated adults report histories of trauma exposure.**

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CASE REPORT

Underdiagnosing Posttraumatic Stress Disorder in a State Hospital

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ABSTRACT

Prior research has found that individuals with serious mental illness (SMI), such as severe mood disorders and psychotic disorders, tend to have higher rates of trauma. The purpose of the present study was to assess the prevalence rates of diagnosed posttraumatic stress disorder (PTSD) among a sample of forensic psychiatric patients. It was hypothesized that true rates of PTSD may be underrepresented due to the primary focus of treatment in this setting being the treatment of SMI. Recommendations are provided for increasing diagnostic accuracy and improving trauma-informed care.

KEYWORDS

Inpatient; prevalence; PTSD; serious mental illness; trauma

Serious Mental Illness (SMI) and Trauma

- Those with SMI are more likely than those without SMI to be charged with a criminal offense after being arrested.
- Those with SMI have higher rates of incarceration.
- **System-involved individuals with SMI are disproportionately affected by prior trauma (both adverse childhood and adverse adult experiences).**

Trauma Exposure

Abuse (i.e., physical, sexual, psychological)

Neglect

Witnessing Violence (i.e., domestic violence, neighborhood violence)

Interpersonal/Dating Violence

Natural Disaster (i.e., tornado, hurricanes, residential fire)

School Violence

Cybervictimization

Racial Stress & Trauma/Intergenerational Trauma/Hate Crimes

Terrorism

Acute Trauma

Single, isolated incident

Examples:

- Accident
- Natural disaster
- Single act of violence or terrorism
- Sudden unexpected loss

Chronic Trauma

Traumatic experiences that are repeated and prolonged

Examples:

- Continuous family and community violence
- Chronic bullying
- Poverty and poverty-related stressors
- Long-term illness
- Exposure to war, torture, or force displacement

Complex Trauma

Exposure to multiple traumatic events (usually from an early age, often within the caregiving system or without adequate adult support) that has short-term and long-term negative consequences

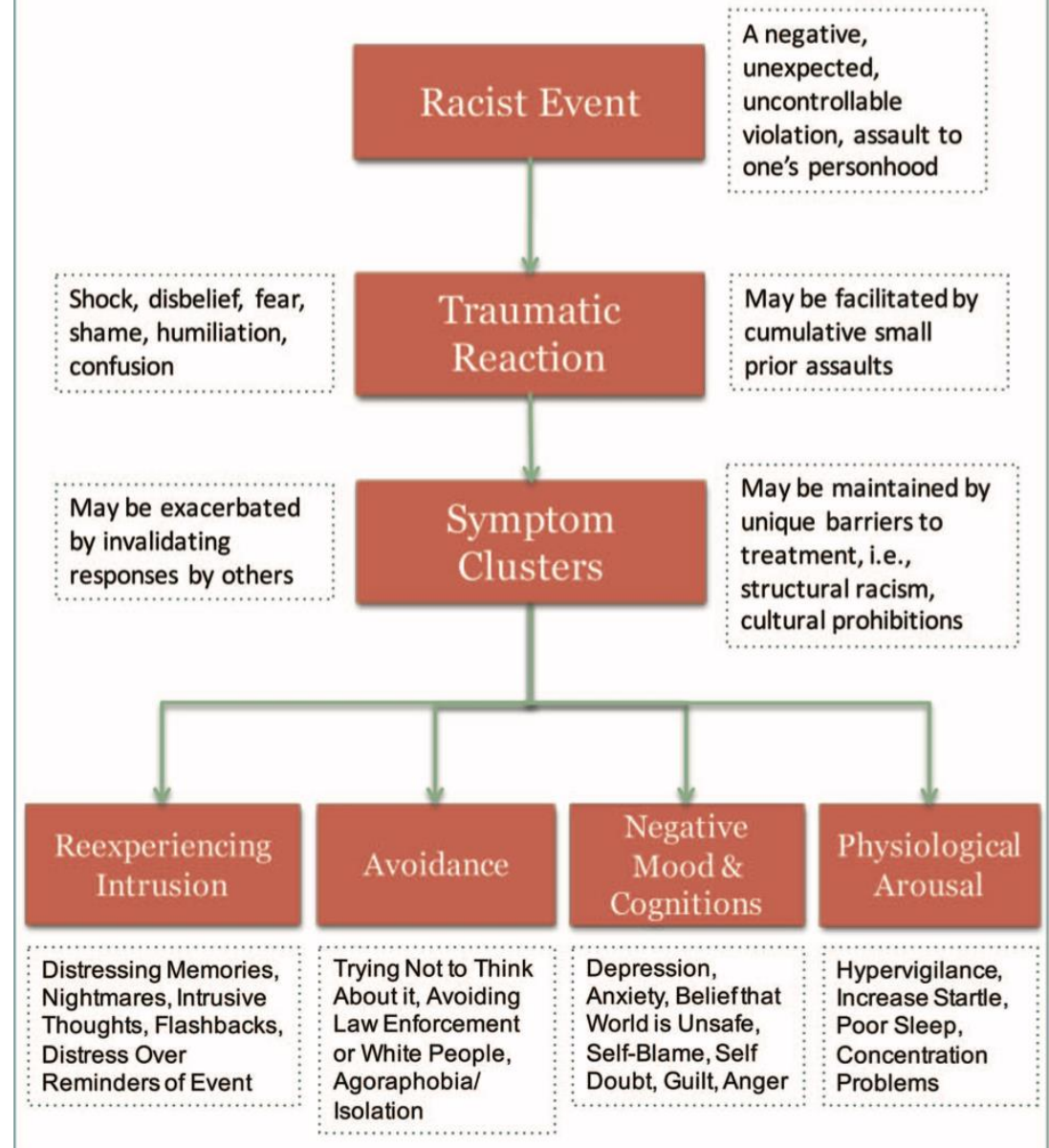
Examples:

- Physical, emotional, sexual abuse
- Neglect
- Witnessing interpersonal violence

Racial Trauma

- **Racial trauma:** Experiences with racial discrimination posited as one of the reasons why People of Color experience higher rates of PTSD
- Racial discrimination is a stressor that:
 - Induces distress, frustration, and anxiety
 - Adversely affects mental and physical health
 - This can lead to maladaptive behaviors, including but not limited to increased substance use and risky sexual behavior
- Correlations between perceived discrimination and symptoms have been observed across several studies.

Racial Trauma and PTSD in the DSM-5



Mass. High Court Says Black Men May Have Legitimate Reason To Flee Police

September 20, 2016

By [Zeninjor Enwemeka](#) 



This article is more than 6 years old.

Black men who try to avoid an encounter with Boston police by fleeing may have a legitimate reason to do so — and should not be deemed suspicious — according to a ruling by the Massachusetts Supreme Judicial Court.

Citing [Boston police data](#) and a [2014 report by the ACLU of Massachusetts](#) that found [blacks were disproportionately stopped by the city's police](#), the state's highest court on Tuesday threw out the gun conviction of Jimmy Warren.

Commonwealth v. Warren (2016)



The contribution of social media toward racial trauma and post-traumatic stress disorder in Black Americans: a forensic perspective

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ABSTRACT

In recent years, there has been a barrage of social media posts about police brutality toward Black Americans. While the posting of police brutality videos on social media can certainly have a positive impact on legal cases and public policies, what effect does the exposure have on the mental health of Black Americans? This article uses a review of the literature to investigate the reasons why Black Americans can be significantly impacted by exposure to police brutality videos. It also includes a case study of a Black American male who developed posttraumatic stress disorder in response to such videos in the context of a forensic evaluation.

ARTICLE HISTORY Received 29 June 2021; Accepted 19 July 2022

KEYWORDS Social media; racial trauma; PTSD; police brutality; Black American; forensic

Intrusion symptoms

- (1) During his arrest, Steve experienced intense psychological distress at exposure to external cues that symbolized or resembled an aspect of the traumatic event.
 - He felt intense fear in the presence of police officers.
 - He felt fear in response to his perception of the police officer holding a gun on its side.
 - He experienced an auditory hallucination of a voice in response to the police interaction. The voice told him not to get shot and become 'another statistic' along with other Black American men.
- (2) Steve experienced a marked physiological reaction to external cues that symbolized or resembled an aspect of the traumatic event.
 - He had a panic attack in response to forceful contact with his body.

Avoidance

- (1) Steve made efforts to avoid external reminders that aroused distressing memories, thoughts, or feelings about the traumatic event:
 - He made attempts to avoid seeing images related to police killings of Black Americans.

Negative alterations in cognitions and mood associated with the traumatic events

- (1) Steve experienced a persistent negative emotional state.
 - He reported anxiety.
 - He demonstrated fear of officers and correctional officers as well as paranoia regarding correctional officers (he believed they were stealing his belongings and his father was one of them).
- (2) Steve experienced persistent and exaggerated negative beliefs or expectations about others.
 - He reported the belief that all police were dangerous and aggressive toward Black Americans.

Historical Trauma

Historical trauma: Collective trauma experienced over time and across generational for groups with shared identities or circumstances involving oppression, marginalization, and trauma exposure (Brave Heart & DeBruyn, 1998; Mohatt et al., 2014).

Intergenerational transmission of trauma: References when the offspring of individual who experienced trauma displays adverse outcomes (Bowers & Yehuda, 2016; Yehuda & Lehrner, 2018; Yehuda et al., 2018).

Over the past few decades, the term has been applied to colonized Indigenous groups across the world, as well as descendants of Holocaust survivors, Black Americans, Japanese American survivors of internment camps, and Armenian genocide survivors, to name a few.

Can occur consciously or unconsciously, through learned behavior, through biology or epigenetics, or through disrupted familial attachment (Coleman, 2016).

Initial/Short-term Responses

Shakiness, dizziness, numbness

Crying or tearfulness

Sleep disturbances

Increased irritability and anger

Withdrawal

Avoidance of reminders of the events

Physical symptoms

Anxiety

Thoughts of death/dying

Flashbacks/nightmares

Initiating or increasing alcohol/drug use

Sexualized behaviors

Delayed/Cumulative Responses

Preoccupation with the event to the exclusion of life activities

Avoidance of reminders

Ongoing fatigue

Feelings of hopelessness, powerlessness, worthlessness

Forgetfulness

Flashbacks/nightmares

Sense of not being “all there”

Inability to leave home and feel safe

Suicidal thinking/planning

Dissociation

Post-Traumatic Stress Disorder

Person was exposed to death, threatened death, actual or threatened serious injury, or actual or threatened sexual violence, in the following way(s):

- Direct exposure
- Witnessing the trauma
- Learning that a relative or close friend was exposed to a trauma
- Indirect exposure to aversive details of the trauma, usually in the course of professional duties (e.g., first responders, medics).

Post-Traumatic Stress Disorder

Intrusive Symptoms

- Nightmares
- Flashbacks
- Emotional or physical distress after exposure to trauma reminder

Avoidance Symptoms

- Avoiding trauma-related thoughts or feelings
- Avoiding trauma-related external reminders

Negative Cognitions and Mood

- Inability to recall features of the trauma
- Negative affect
- Feeling isolated

Alterations in Arousal

- Irritability or aggression
- Risky behavior
- Hypervigilance
- Difficulty concentrating
- Difficulty sleeping

Developmental Trajectory of Childhood Trauma

- Adverse Childhood Experiences (ACE)
- Witnessing violence, abuse and neglect history, parental incarceration, parental separation, family mental health, family substance use
- Has been connected to many negative adult outcomes: Alcohol and drug misuse; sleep problems, depression, risk for intimate partner violence, STDs, smoking, suicide attempts, etc.

Thought Questions

- How are you learning about the defendant's trauma histories? How are you asking?
- Is it critical to the case or legal question? Is it relevant?
- When do you seek consultation from an expert?

Therapeutic Jurisprudence

- David Wexler: “The study of the role of law as a therapeutic agent” (Wexler, 1990, p. 43)
- Laws and the legal system should value psychological well-being, bring about healing and wellness, and strive to avoid imposing anti-therapeutic consequences when possible.
- It is common for trauma histories and symptoms to be disregarded or misconstrued in legal contexts (Goldensen et al., 2022).

Vicarious/Secondary Burnout

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Towards trauma-informed legal practice: a review

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Vicarious or secondary trauma experience has always been part of legal practice although many do not acknowledge the risk it can have on the mental health, well-being and performance of legal professionals. The listening to, observing and then detailing of traumatic events for the purposes of legal process in some cases may harm lawyers who need to work closely with clients, victims and witnesses. This article reviews the research on trauma in many areas of professional human services that could inform and improve our understanding of legal practice. It examines the discursive history of trauma and recent studies on lawyer well-being, before discussing the controversies about recognising vicarious trauma and the stigma against mental health concerns in the legal profession. The article concludes by reviewing options to assist law firms in considering trauma-informed policy, practices and supervision strategies and to help individual lawyers recognise the value of self-care.

Key words: burnout; indirect trauma; post-traumatic stress disorder; secondary trauma; self-care; stigma; supervision; trauma-informed; vicarious trauma; well-being.

Conclusion

- Individuals in the legal system are more likely to have experienced potentially traumatic events.
- This history may not always be directly relevant to the case, but it is important in our conceptualizations.
- Knowing this information can inform critical legal decisions, such as the likelihood of rehabilitation.

Questions? Reactions?

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