

## TRAUMA IN PRACTICE

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

*Talia Kraemer and Eliza Patten*

**A**s 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.<sup>1</sup>

- *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

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#### 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](http://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](http://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.<sup>2</sup> 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.<sup>3</sup>

## 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.<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup> 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."<sup>7</sup>

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.<sup>8</sup> 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.<sup>9</sup>

*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.<sup>10</sup>

*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.<sup>11</sup> 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.<sup>12</sup> 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.<sup>13</sup> 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.<sup>14</sup> 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.<sup>15</sup> 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.<sup>16</sup> These deficits can make it harder for youth to construct clear narratives or verbally express their emotions.<sup>17</sup>

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.<sup>18</sup>

*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.<sup>19</sup>

*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.<sup>20</sup>

## 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.<sup>21</sup>

### 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. Transpar-

ency 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

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

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.<sup>23</sup> 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.<sup>24</sup> 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.<sup>25</sup> 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

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

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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.

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.

### **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

- 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.<sup>22</sup>

*Boundaries.* Role definition is crucial

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.<sup>26</sup> 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.<sup>27</sup> 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.<sup>28</sup> 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:<sup>29</sup>

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.<sup>30</sup> 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.<sup>31</sup>
- 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.

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not necessarily represent the official position or policies of the U.S. Department of Justice or ABA.

#### 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.

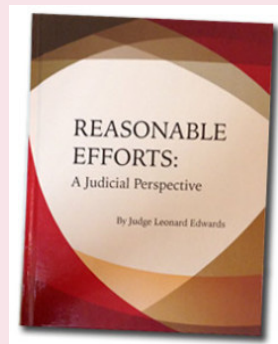
14. Cole et al., 2005, 21-24; Craig, 2008, 51-52.
15. Craig, 2008, 26-27.
16. Cole et al., 2005, 25.
17. Craig, 2008, 47-48.
18. Dr. John Sprinson, Training at Legal Services for Children, Feb. 8, 2013 (on file with authors) ("Sprinson Training 2/8/13").
19. Sprinson Training 2/8/13.
20. Craig, 2008, 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](mailto:cdavidek@ncjfcj.org), 775/784-6012. The book is free but there is a fee for shipping and handling.