

Trauma-Informed Resource for Prosecution Involving Juveniles



EXECUTIVE SUMMARY

We write this guide fully aware of its importance as the various forms of trauma faced by historically marginalized groups comes to the center of our social dialogue. Trauma is commonly thought of as distinct events or unusual periods in an individual’s life, when in reality, many people suffer generational and community trauma based on historical discrimination related to gender, race, ethnicity, and socioeconomic status.

A call to action is needed and we hope this resource helps prosecutors take steps to answer that call and build a more just justice system. As a prosecutor, you are in the unique position of working for the community, charged with pursuing justice while working within a law enforcement system historically rife with racial and socioeconomic inequity. Prosecutors are the primary decision makers at many critical points in the justice system. With this immense responsibility comes the ability to make change.

To overcome social and systemic injustices that persist, we must embrace the conversation, understand the history, and work to implement a trauma-informed approach into our work. Such acknowledgement requires self-examination, self-awareness, overcoming the challenges of open communication on these issues, and engaging in ongoing dialogue. Minority, LGBTQ, and other historically marginalized groups are overrepresented in the justice system. Understanding the role of trauma is an important step in approaching justice-involved individuals, in a manner that is supportive and rehabilitative and serves the best interests of the community. For that reason, this guide is imperative to our work.

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Section Highlights: Initial Steps in Developing Trauma-Informed Prosecutions

- Understand that youth involved in the criminal-justice system, whether as victim, witness, or defendant, have often been impacted by trauma in many forms. This includes adverse community-based racial or socioeconomic experiences or systems-induced trauma, and youth may have previously been the subject of proceedings for neglect, abuse, or delinquency.
- Recognize that identifying the role of trauma allows prosecutors to better prepare for cases, better support those involved in cases, and achieve better outcomes.
- Realize that experiences of trauma may contribute to criminal behavior. However, treatment and justice system responses can help to prevent re-traumatization, minimize a defendant's likelihood of committing further crimes, and reduce future victimization.
- Use a trauma-informed approach to prosecution. This approach can achieve justice by promoting community reintegration, building resilience, reducing recidivism, removing barriers to success, and improving public safety.

The Attorney General's National Task Force on Children Exposed to Violence (2012) recommends that all professionals working within the juvenile justice system, including prosecutors, learn about trauma-informed care and trauma-focused services.¹

Similarly, the American Bar Association has called for integrating trauma knowledge into daily legal practice and integrating and sustaining trauma awareness and skills in practice and policies.² As a prosecutor, your role spans beyond the courtroom and involves work with many stakeholders that are impacted by various forms of trauma. When working with victims, witnesses, or defendants, you play a critical role in bridging the gap between the justice system and the community. Implementing a trauma-informed approach will positively impact every person involved.³

As a prosecutor, you work on a daily basis with youth who have experienced various forms of trauma. Whether the youth are victims or witnesses in criminal cases, suffer from adverse community-based racial or socioeconomic experiences, or are juveniles who are the subject of proceedings for neglect, abuse, or delinquency, understanding the effect of a child's trauma history is essential for the prosecutor to obtain the best outcome.

While a juvenile prosecutor's role can be defined very generally as seeking "justice," the ultimate goals in juvenile justice are community safety and intervention to support youth as members of the community. Witnesses and victims may suffer trauma from the act that led to a criminal prosecution. Juvenile defendants may themselves be trauma victims. An approach that is not trauma-informed can compound the justice system experience and lead to further system-induced trauma, ultimately limiting the prosecutor's ability to achieve these goals on a specific case. It can also harm participants' views of the justice system, making them less likely to participate in the system in the future. Implementing trauma-informed practices increases a victim's or witness' likelihood to call the police, cooperate in an investigation, or give testimony in court. Using trauma-informed practices brings insight that, ultimately, serves long-term community safety through support of the victim, witness, accused, and those who experience secondary trauma.

All experiences of trauma, including system-induced trauma, are important considerations. Understanding that you as a prosecutor may not have access to all the information, whatever information is available to you should be considered at every stage of the process, from charging and arraignment decisions through disposition. Trauma history may be used to guide treatment and other services that work to achieve community reintegration, build resilience, and remove barriers to success, thereby reducing the risk for future criminal behavior and meeting the prosecutor's goal of ensuring public safety. An effectively implemented trauma-informed approach can accelerate recovery from the impact of trauma for victims, witnesses, and offenders—supporting their ability to reintegrate with the community as quickly as possible.

Although a defendant's history of trauma does not generally excuse conduct that breaks the law, the trauma history may help to understand why the behavior occurred, and may guide the development of the best means of making sure that the conduct does not happen again.

A trauma-informed prosecution approach, at a minimum, requires the following skills:

- Learning to recognize the signs and symptoms indicating the defendant, witnesses, or victims may have experienced trauma.
- Understanding that many participants in the justice system are victims of complex trauma, stemming from more than a single incident.
- Understanding that trauma victims often do not perceive or understand how they are affected by their traumatic experiences.
- Understanding that trauma victims are often unwilling, and/or unable to talk about their traumatic experiences, and that, for a myriad of complex reasons, many trauma victims will falsely deny having experienced trauma (especially if it involved sexual assault).
- Understanding that some trauma victims are more resilient than others.
- Being aware of the possibility of self-harm, recognizing indicators (such as cutting scars or new injuries), and knowing the appropriate steps and safeguards that need to be put in place.
- Understanding that trauma only equates to an experience and is not a diagnosis.
- Understanding that victims' trauma and their response to that trauma can be very different depending on the type of crime (e.g., gang violence vs. sexual assault).
- Understanding that trauma caused by a victimizing event can extend beyond victims and witnesses to their families and communities.
- Understanding the role of internal and external victim and witness advocates and how to use their services.
- Knowing how to speak to victims and witnesses about the possibility they are suffering from trauma.
- Taking advantage of available screening tools and taking steps to ensure that they are free from bias.
- Working with advocates to find appropriate resources for traumatized victims and witnesses.
- Explaining the justice system process thoroughly so that victims and witnesses can begin to develop coping mechanisms for future events (e.g., testimony, impact statements, defendant's release).
- Working with advocates to make referrals for culturally sensitive, evidence-based assessment and treatment for traumatic stress and associated mental health symptoms.
- Advocating for resources on trauma exposure (e.g., psychoeducational books, victim assistance information), its impact, and treatment for children and families.
- Understanding and promoting resilience and protective factors for victims, witnesses and their families.
- Understanding parent and caregiver trauma and its effects on the juvenile case.
- Maintaining work environments for staff that increase staff resilience and address, reduce, and treat vicarious or secondary traumatic stress.
- Considering the impact of physical and psychological safety on victims and witnesses.
- Taking steps to help victims and witnesses cope with stressful court proceedings and recognizing when clients may be impacted by trauma.
- Understanding how trauma may contribute to criminal behavior, as well as which treatment and justice system responses can minimize a defendant's likelihood of committing further crimes and victimization.
- Engaging in continuing education about trauma to stay informed of new developments.



GLOSSARY OF TERMS

Trauma

Exposure to actual or threatened death, serious injury, or violence in one of the following ways: (1) Directly experienced; (2) Witnessed; (3) Learning that a loved one experienced trauma; or (4) Repeated or extreme exposure to aversive details of traumatic events (e.g., attorneys working with trauma survivors). Traumatic events can include, but are not limited to, physical abuse, sexual abuse, psychological abuse, loss of a loved one, exposure to domestic violence, exposure to community violence, sexual exploitation, and exposure to war or a natural disaster.

Child Traumatic Stress Reactions

Occur when a child experiences a traumatic event or situation that upsets and overwhelms the child's ability to cope. A child exposed to trauma may experience a variety of traumatic stress reactions, including but not limited to nightmares, difficulty sleeping, hypervigilance, trouble concentrating, depressive symptoms (e.g., sadness, loss of interest in activities, changes in appetite), and exaggerated startle responses. These symptoms may interfere with daily life across multiple settings including home, work, school, and within relationships.

The Body's Alarm System

The part of the brain that scans the environment for danger and prepares us to act. When triggered, the alarm system sets off a cascade of immediate physiological changes that prepare one to *fight-flight-freeze* in order to stay safe. This is a complex response that involves multiple areas of the brain, including the sympathetic nervous system, the prefrontal cortex, and the amygdala.

Trauma Trigger (or Reminder)

A reminder of a past traumatic event that sets off the body's alarm system, making people feel as if they are once again in imminent danger. A trigger can be anything connected to a traumatic event, including an event, situation, place, physical sensation, or even people. It need not be inherently threatening.

Posttraumatic Stress Disorder

One of several mental health disorders often associated with trauma exposure. PTSD is characterized by problems in 4 areas: *Re-Experiencing* (e.g., flashbacks or nightmares of traumatic event); *Avoidance* of thoughts or reminders of past trauma; *Negative Changes in Thought or Mood* (e.g., persistent negative emotions, persistent or exaggerated negative beliefs about oneself, others, or the world); and *Hyperarousal* (angry outbursts, constantly "on guard" against potential threats). Some people may also experience *Dissociation* (See Appendix for additional information).

Complex Trauma

While not an official diagnosis, this term refers to exposure to multiple or prolonged forms of traumatic experiences and the wide-ranging, long-term impact of this exposure. Complex trauma disrupts normal child development and may lead to difficulties with attachment (e.g., ability to form trusting, meaningful relationships), managing emotions and behavior, and executive functioning (e.g., ability to focus attention, solve problems, plan or pursue long-term goals).

Survival Coping

Refers to the management of stressful situations and responses to trauma reminders following a traumatic experience.⁴ Specifically, this involves coping strategies designed to relieve the anxiety brought on by feeling "victimized" while attempting to protect oneself. It includes behaviors such as hypervigilance (e.g., distrustful/on edge), aggression, hopelessness masked as indifference, and self-destructive behaviors (e.g., substance use, self-harm, eating disorders, unsafe sex). When unaddressed, it can become a chronic and default style of engaging others and addressing problems.

Psychological Safety

The belief that one is safe from emotional harm and has the ability to manage threats to safety. Psychologically safe environments encourage respect for others' feelings, even when there is disagreement. Individuals can also increase their sense of psychological safety in stressful situations by learning and using coping skills.

Resilience

Refers to the ability to adapt and function effectively despite exposure to trauma or other stressful life events.⁵ Even youth and families who face extraordinary stresses have the capacity for resilience.

Adverse Childhood Experiences (ACEs)

A group of potentially traumatic experiences occurring in childhood (prior to age 18) that have been found to be detrimental to healthy development and increase the risk for court involvement, morbidity, and mortality. Higher number of ACEs correlate with increase of risk.⁶ The ACE screening tool can be used to assess for ACEs. Note: several other screening tools are available to provide a comprehensive screen that includes traumatic experiences beyond items on the ACEs Questionnaire.

Traumatic Stress Response

Can occur when a child experiences chronic adversity beyond the mind and body's capacity for healthy coping without adequate external adult support to mitigate effects. Results in a prolonged biological stress response, which can be detrimental for healthy brain development and can result in degradation of DNA, which increases risk of illness and death.⁷

Section Highlights: Impact of Trauma Exposure on Child Development

- Identify youth impacted by trauma in order to properly evaluate youth's behavior, reduce misdiagnosis and unnecessary and unhelpful discipline or correction, and lead to more effective supports and treatment.
- Understand how youth may deny trauma or be reluctant to disclose trauma because of threats by abusers, fear they will get in trouble, fear of police and people in authority, self-blame and shame, and an inability to speak about their traumatic event.
- Know that youth may be reluctant to trust or cooperate with prosecution due to their perception of the role of law enforcement or systems in previous trauma.
- Understand how trauma-created perceptions and reactions can result in decisions based on fear or anxiety rather than mature reflection, even in non-threatening environments.
- Know that youth may react with aggressive, defiant, or avoidant behaviors when triggered, in an effort to feel safe, keep others at a distance, or attempt to escape the situation, even while such reactions may not be conscious or intentional.

A robust understanding of the impact of trauma on child and adolescent development requires a more in-depth review of the context in which traumatic events occur. Exposure to trauma may involve either direct experiences (e.g., being neglected or abused) or witnessed experiences, visual or auditory (e.g., exposure to domestic violence between caregivers). Children may also be traumatized by hearing about something that happened to their parent or caregiver (e.g., serious injury, incarceration).⁸ Expanding evidence suggests that untreated trauma can have a negative biological impact on future generations.⁹ Moreover, exposure to multiple forms of trauma or repeated trauma has a compounding effect on children.¹⁰ According to a national survey, approximately 70% of youth in the United States have directly experienced a physical assault and/or witnessed violence during their lifetime.¹¹ Youth in the juvenile justice system have even higher rates of trauma exposure, with up to 90% of justice-involved youth having experienced at least one traumatic event.¹²

It is also important as a prosecutor to understand that in the youth's eyes, the trauma history might have been caused by law enforcement and/or the judicial system. For example, it can be a traumatic event for a child to watch police break into the family home and arrest and remove a parent or family member, and it is often a traumatic event for a child to be removed from the home (especially if placed in foster care), even when that is done for the child's protection. Prior "system-based" traumatic events pose an additional problem for the prosecutor, in that these events frequently bring about a deep distrust of "the system" and everyone in it, in addition to the regular trauma responses.

Traumatic experiences early in life may alter how the brain assesses threat and how youth respond to stress. When these situations are frequent during childhood, the brain develops shortcuts to quickly identify a threat and initiate the body's alarm system, unconsciously using this information to respond more quickly by bypassing the impulse control, decision-making, and problem-solving functions that are more likely to occur in non-threatening situations. Moreover, the structures of the brain responsible for optimal decision making during non-threatening situations does not fully mature until a youth's mid-20s (i.e., frontal lobe, pre-frontal cortex).¹³ In the end, the trauma-created shortcuts can result in decisions based on fear or anxiety rather than mature reflection, even in non-threatening environments.

Victims, witnesses, and justice-involved youth exposed to traumatic events may live in neighborhoods that present frequent threats to safety, such as ongoing community violence. Some survival coping strategies employed in these environments may serve adaptive functions to help youth navigate dangerous situations safely but may persist in non-threatening situations and become maladaptive traumatic stress reactions that disrupt their behavior, relationships, and other vital areas of their lives. Youths' fight, flight, or freeze responses may be "triggered" by anything that reminds them of past traumatic events, causing them to believe that they are in immediate danger and prompting their mind to engage in survival coping strategies to maintain or regain safety. Youth may then react with aggressive, defiant, or avoidant behaviors in an effort to feel safe, keep others at a distance, or attempt to escape the situation. It is important to note that these reactions sometimes occur outside of an individual's conscious awareness and become automatic responses to perceived threat when a trusting person

is not present to help increase their awareness of these fight, flight, or freeze responses. Some of the behaviors that can lead to involvement in the juvenile justice system may also be survival coping strategies. For example, the use of substances may be an attempt to manage or reduce traumatic stress reactions, such as nightmares and hypervigilance. Youth may join a gang or carry a weapon in order to increase feelings of safety, or they may fight other youth or adults in an attempt to feel empowered or in control of their safety. Other common responses include running away from home, the classroom, or the courtroom; avoiding attorneys or court hearings they perceive as threatening; shutting down; or “spacing out.” It is important to remember that response to trauma is very individualized and may take different forms based on an individual’s upbringing, environment, and cultural development and norms.

These traumatic stress reactions may continue to occur even when an attorney or other adult is offering help or the situation appears to others as safe. For some youth, previous experiences with trusted adults may have resulted in adverse or traumatic experiences that make it difficult to build relationships or trust others going forward.

Identifying Youth Affected by Trauma

Individuals have a range of reactions to traumatic events. Most trauma survivors will recover from their experiences, even without professional intervention. Trauma’s impact on the brain and normal child development depends on the level of resilience, and even when there is significant harm, the impact can be mitigated with appropriate treatment and other supports. Some youth will develop a variety of traumatic stress reactions that disrupt their interpersonal, social-emotional, and academic functioning. Common traumatic stress reactions include severe depressed or anxious mood, aggressive behavior, difficulty concentrating, difficulty sleeping, and self-harm (including cutting). These traumatic stress reactions may become severe enough to warrant a clinical diagnosis. In addition to clinical depression and anxiety, symptoms may reflect the onset of Posttraumatic Stress Disorder (PTSD).

Many trauma survivors will not meet criteria for a diagnosis of PTSD or another disorder but may still experience significant trauma-related impairment in their daily lives. Youth or adults with more chronic or pervasive exposure to traumatic events (termed complex trauma) may suffer additional challenges that are not captured by the PTSD diagnosis. Additionally, some youth may receive clinical diagnoses such as Conduct Disorder, Oppositional Defiant Disorder, or a substance use disorder in response to behaviors that may be more accurately conceptualized or defined as reactions to traumatic events, even if criteria for PTSD are not met.¹⁴

In the absence of a disclosure of previous trauma, the classic symptoms of PTSD may be misdiagnosed in schools and in the court process. For example, the PTSD symptom of inability to focus may be confused as a symptom of ADHD, and sleep disturbances due to nightmares may be misdiagnosed as insomnia and ineffectively treated with melatonin. A child who is truant because he or she cannot sleep at night and cannot get up in the morning, or because he or she gets triggered at school, is often misunderstood. Youth who run away or run out of class (or court) may be experiencing the “flight” reaction to a trauma trigger rather than behaving “badly.” Youth who become suddenly aggressive without provocation (verbally or physically) might be experiencing the “fight” response to a trauma trigger. A youth who stares off into space and pays no attention in class or in court may be experiencing the “freeze” response to a trigger. Headaches, chest and stomach pains with no known medical cause are common for youth with PTSD. Repeated instances of fainting and losing consciousness are also common for youth with PTSD. Substance abuse is common as youth and adults with PTSD often try to numb or manage their symptoms. Changes in behavior are particularly important to focus on, but other factors should also be considered. “Good” kids who suddenly engage in a series of “bad” behaviors may be reacting to a recent trauma. Youth who had early placements in foster care, or suffered early abuse, may have been perceived as behaving intrinsically “bad” their entire lives when they were actually exhibiting behaviors resulting from traumatic experiences. Recurrent aggressive attitudes and/or behaviors may also be examples of trauma reactions, as youth may be engaging in ongoing self-protective efforts to avoid ever being victimized again. Similarly, youth who appear and are classified as “callous and unemotional” may in fact be emotionally numb and unwilling to engage in interpersonal relationships as a result of prior victimization.

Trauma screening can be useful for you in determining whether a youth has experienced trauma and may be struggling with traumatic stress reactions. If you see that a trauma screening reveals trauma exposure, a further in-depth assessment for trauma exposure and related symptoms may be warranted to determine the impact of the traumatic experiences and the need for appropriate treatment (see Section 6 for more information on screening and assessment).

However, unless the child is a witness in a case involving a violent crime, determining whether a youth has experienced a trauma may be difficult. An overwhelming majority of children delay disclosing traumatic events, if they disclose them at all, and many will falsely deny a trauma if asked directly. There are countless reasons why children do not talk about trauma. Common reasons include threats by abusers; fear they will get in trouble; fear of police and people in authority; self-blame and shame; and an inability to speak about their traumatic event.

As a prosecutor, you must, therefore, look beyond a youth's denial or lack of history of prior trauma, look for evidence of trauma through the child's behavior and history, and consider modifying the decisions and recommendations made as a result. For example, if a child has experience in foster care, as the prosecutor, you should presume that the child has experienced trauma. Studies have shown that between 33% and 50% of children placed in foster care meet the diagnostic criteria for one or more disabilities or diagnoses (e.g., anxiety, depression, ADHD) that have been associated with trauma. The percentage of reported trauma-related disabilities also increases with an increase in the number of foster care placements.¹⁵

3

The Potential Impact of Trauma Exposure on Memory and Credibility

Section Highlights: Impact of Trauma Exposure on Memory and Credibility

- Understand how memory formation processes differ during traumatic events and can impact an individual's encoding of memories, sensory perceptions, and sense of chronology.
- Be aware that delayed recall and reporting of traumatic events is common and can be impacted by the individual characteristics of the child, the relationship to the perpetrator, the nature and duration of the trauma, threats against the child, and the child's sense of responsibility for or shame about the incident(s).
- Use good, trauma-informed interview practices to support the witness and promote a sense of safety, avoid compromising the testimony, and obtain the fullest picture of the child's understanding and experience of the event(s).
- Prepare witnesses for the experience of testifying through familiarizing the child with key players and logistics, seeking appropriate accommodations, and anticipating traumatic reactions during testimony.
- Slow testimony down during direct examination to fully explore the witnesses' memories of the event and sensations and emotions experienced, including peripheral details and thought processes.
- Prepare for cross-examination by being informed about all previous accounts of the event that have been shared, including any denials or partial disclosures.
- Retain expert testimony to explain the impact of trauma on memory delayed recall and disclosure, and to help explain normal behavioral changes in the witness following trauma and normal expected effect during disclosure or testimony.

During traumatic events, memory is often affected. Indeed, memory disturbances (meaning alterations from normal memory processes) are both common and expected. The reason for this is straightforward from a neurobiological standpoint. During times of high arousal, our bodies react to the stress or threat by engaging our limbic system. This engagement results in the production of adrenaline for whatever fight or flight may be necessary, and results in expected physical responses such as production of sweat, increased heart rate, and shallow breathing. Limbic engagement also means that the brain's hippocampus and amygdala are driving reactions, and the encoding of memory, while the neocortex (the thinking and rationalizing part of our brain) takes a backseat. This shift also affects the brain's ability to accurately assess the passage of time, and, importantly, results in a loss of language capabilities.¹⁶

The way this operates in practice bears resemblance to an inverse U-relationship, so that initially as arousal increases, there is a super-encoding or hypermnnesia effect leading to increased memory.¹⁷ Think of this as the "flashbulb" effect, or persons describing images "seared" into their memory, such as the details of where they were when they learned about 9/11. However, as horror and inescapable shock increases so that the person fears they will not survive, encoding of the event can be negatively affected. Note that this stage is not reached during all traumatic events or by all persons experiencing trauma.

Due to this effect, traumatic memories differ from memories of ordinary events. They can often be composed of images, physical sensations such as sounds and smells and feelings, and emotional memories. Persons can experience memory fragments and "islands of memory," but have difficulty in understanding the sequencing of events or the passage of time and find it difficult to find words or a coherent narrative to the event. While the central details of an event are often remembered, few peripheral details and complex contextual information may be recalled. For persons who dissociate during a traumatic event, they can experience an alteration in their consciousness as a type of defense to the horror or pain they are experiencing. With dissociation, persons can experience watching the events from above, or feeling they are not in their body. During such times, they may feel no pain or bodily sensations at all. Hyperfocus can also result in an extreme focus on an object

or point in the room during trauma, such as a ceiling, or clock, or wallpaper, resulting in a very clear memory of such object or focal point. Particular sensations or repeated thoughts may be prevalent in traumatic memories, including a thought the individual would die. The person may feel that they were immobilized, frozen and/or unable to speak during the event.

For young children, who developmentally do not yet have a strong sense of present time orientation, these feelings can be even stronger, leading them to believe the trauma or any threats they may have received are experienced constantly and in the present. A very young child's lack of verbal development may also further diminish their ability to verbalize what occurred during any trauma.

Reporting, Delayed Reporting, and Remembering

For both young children and adults who experience a traumatic event, it is difficult to recall the event chronologically, particularly in the direct aftermath of such an event. To do so requires a process of integrating the often fragmented traumatic memories and experience into a coherent narrative. This process highlights the difference between explicit memory—conscious, autobiographical memory in narrative form—and implicit memory—often involving images and emotional and physical sensations.

It is very common in cases of trauma for an individual to delay reporting the trauma, or to recall the trauma in such a narrative form long after the events have first occurred. There are several factors that can contribute to delayed recall or reporting of trauma. These include:

- A child's young age at the time of the trauma.
- The duration or repetition of the trauma or abuse.
- The child's close or dependent relationship on the perpetrator of any abuse.
- Whether the child was physically injured or feared death.
- Whether the child was subjected to multiple traumas or types of abuse.
- Whether the child had a relationship with a trusted and sympathetic adult(s).¹⁸

There are also feelings of shame and fear that can contribute to delayed recall and reporting. These can arise from a child's feeling of shared responsibility for, or participation in, any abuse. Persons who experienced any physical sensations of arousal or enjoyment during abuse may also feel shame about disclosing the abuse. Threats issued can continue to create fear and interfere with recall and reporting for many years after any abuse. For young children, these effects can be amplified. Because of young children's developmentally appropriate egocentrism, literal thinking, and lack of a developed sense of time, they may feel more responsible for abuse that has occurred and be particularly susceptible to any threats, even those that are not rationally grounded in reality (such as threat that the perpetrator would instantly "know" about any disclosure or would be able to carry out). Very young children are also more susceptible to suggestion or gaslighting, where the child's perceptions of what occurred are subject to distortion by adults who may convince the child the event did not occur or was not wrongful activity.

Youth also typically tell their trauma story in pieces, over time. Often, the most painful and upsetting details are not disclosed until weeks or months after the initial disclosure, if at all, and sometimes not until the youth is on the witness stand in the jury trial. This may occur because:

- the perpetrator has threatened the youth conditioned on whether the youth chooses to disclose information, resulting in a delayed disclosure as the youth feels unsafe to tell,
- the youth has been led to believe that the event was the youth's fault, and the youth is afraid of getting in trouble with disclosing information, and
- the youth has not yet built enough trust and safety with the interviewer to talk about a deeply upsetting event. In contrast, the youth may have no difficulty describing seemingly insignificant details that can be used to corroborate the account, like the color of the house, the description of the furniture, what the perpetrator was wearing, the wallpaper in the room, the name of a television show, or the smell of cologne or beer.

For persons recalling a traumatic event or abuse after substantial time has passed (and often once they have achieved a greater sense of personal safety), the process of remembering is often gradual and non-linear. An individual's memory is often initially "triggered" by a similar situation or sensation, which can be as varied as an interaction with a child of a similar age to their own age during the trauma or a situation that invoked a similar emotional response. The person may first expe-

rience strong fear or emotional and physical sensations, followed by memory fragments in images or flashbacks, and finally an ability to share a declarative memory of what transpired (which is often incomplete).

These later recalled memories may be subject to attack as “false memories” by defense strategy or experts. While delayed recall and reporting of trauma is well-known and documented, it is still vulnerable to these attacks because limitations on clinical studies, both ethically and in terms of feasibility, prevent the phenomenon from being clinically reproduced.¹⁹ Some studies have shown, however, that central details of traumatic memories are less vulnerable to distortion than are peripheral details, and that there are no more discrepancies in the memories of those who recall traumatic events after periods of not remembering them than in the memories of those who always maintained recall of traumatic events.²⁰ There can be good reason to trust traumatic memories, even after substantial time has passed. Due to the memory processes described above, persons can be more likely to remember events that are outside their normal pattern of life, are meaningful to them and/or emotionally impactful, and occurred during times of high arousal. A longitudinal study showed that World War II veterans’ traumatic memories remained intact 45 years after the events occurred.

Good interviewing practices by police and the prosecution team can be sensitive to the needs of trauma victims and witnesses and can help to best capture traumatic memories while minimizing potential distortion to memories. These include:

- Finding out if the youth has an Individualized Education Program (IEP) or a Section 504 plan,²² and making sure to provide appropriate accommodations prior to the interview.
- Determining what level the youth is in school prior to the interview (which may or may not be commensurate with age) and adjusting the approach accordingly.
- Making sure that the interviewer is in plain clothes, with no visible badge, as many children have been taught to fear the police.
- Explaining that the interviewer’s job is to keep children safe.
- Explaining that, if some things are hard to talk about, that the youth can write or text responses.
- Acknowledging that these things can be hard to talk about if the child struggles with disclosure.
- Conducting the interview with a trained forensic interviewer, whenever possible.
- Eliminating expectations for victims or witnesses, particularly children, in sharing any particular outcome or event.
- Avoiding suggestibility by instructing the individual not to guess the answers and encouraging them to say they do not know the answer to any question asked.²³
- Avoiding repetition of the account to multiple persons or over multiple interviews.
- Asking open-ended questions, such as “is there anything else you’d like to tell me?”
- Avoid asking questions that imply chronology, like “what happened next” and consider instead, “what else happened” or “is there anything else you remember?”
- Taking it slow, allowing for disclosure as the individual is comfortable and remembers, without pushing for details (especially right after incident).
- Allowing the individual to disclose in a more narrative fashion than through interrogation.
- Ask “Did this happen once, or more than once?” after the disclosure and then try to draw out more details if possible.
- Asking questions to evoke the individual’s sensory memories, feelings, and perceptions.
- Encouraging the individual to share everything they remember—good or bad.
- Asking what other people might have seen or heard.
- Asking about details that may be corroborated through other sources.
- Asking what the perpetrator might say or try to use against the individual.
- Saying, “Is there anything else you want to tell me today?” and avoiding asking questions like “have you told me everything?” because youth will often say yes, even if it is not true.

What to Expect during Testimony

It is critically important to prepare trauma witnesses not just for their testimony, but for the event of testifying. These witnesses should be shown the courtroom in advance. Ideally, they should sit in the witness stand, and handle a few simple, non-traumatic questions, back and forth, to get a feel for how it will work. The prosecutor should explain where the judge will be sitting, and where the defendant, the jury, and the witness' support person will be. It is important to practice the process of handling objections from defense counsel, so the witness will not be surprised and set off course in the courtroom. In addition, for young witnesses, prosecutors should describe the role of the judge, why a judge wears a black robe and what the other people in the courtroom are doing. If a witness feels unsafe in the courtroom, it might be helpful for the witness to meet the courtroom deputy, learn what a courtroom deputy does and understand where the deputy will be during the testimony.

You as the prosecutor should do this early in the process, as issues might arise that warrant accommodations for the witness. For example, should the witness be permitted to testify outside the presence of the defendant? Does the witness have disabilities or diagnoses (including but not limited to PTSD) that require accommodations? Does the witness have an expressive communications disability, whereby the witness will need to provide written responses? It is one thing to be able to talk about traumatic events in a small room with a forensic interviewer. It is another thing altogether to be able to talk about traumatic events in a packed courtroom. The prosecutor should work with the witness to make that process as comfortable as possible.

It is also important for you, as a prosecutor, to keep in mind the nature of traumatic memories while preparing for testimony at hearings or trial. Foremost, it is likely that an individual testifying about a traumatic memory may experience a surge of hormones, hyperarousal, or dissociation on the witness stand. You as a prosecutor should prepare victims and witnesses for that possibility and be aware of trauma responses occurring in any defendant during such testimony. Facing the accused and speaking of the trauma is often sufficient to evoke such responses, which include physiological symptoms such as sweating, nausea, increased heart rate, and shallow breathing. A witness may also find it difficult to articulate responses to questions, or to testify in a manner that appears emotionally disconnected and empty or "spacey." Trauma victims also frequently discuss the trauma with a lack of affect in their voice. Rather than crying or screaming, they might recite the trauma stoically, as though they are reading a list of groceries they need to buy at the store. This is a common coping mechanism as well as a symptom of PTSD and should not be viewed as a sign that the report is not credible. An expert can explain the lack of affect to a jury, and that the lack of affect may in fact indicate that the event described was traumatic for the child.

During such states, the youth may also find it more difficult to remember events chronologically and may experience gaps in their memory. Preparing the youth for the likelihood of such a response, taking frequent breaks in testimony, and finding ways to ground the individual in the present moment can be important ways you can support youth who are testifying. The degree of trauma reactions experienced by a witness during testimony may be dependent on the amount of memory integration the individual has been able to achieve since the trauma occurred, and their current environment and feelings of safety.

Direct Examination. During direct examination, as the prosecutor, you should incorporate knowledge of traumatic memory into the questions asked. While certain memory gaps are to be expected, it can be very persuasive to slow testimony down and elaborate on the often deep sensory and emotional perceptions recalled. A witness can be asked about peripheral cues about the trauma, what else was going on or what abstract details make them immediately recall the trauma (e.g., a pattern on the curtains, a certain smell). A witness can identify the central details and testify in depth about the moment that fear took over for them. They can testify as to any repeated thoughts they had during the trauma, what coping strategies they employed for survival, exact details of the images they recall. They can recall what sensations they were experiencing, and whether they felt immobilized, unable to speak, or thrown around like a rag doll. Through these sensations and thoughts, the prosecutor can show that the individual's experience was inconsistent with a mutual experience or innocent play, for example.²⁴

Cross-examination. In preparing an individual for cross-examination, the prosecutor should be aware of any previous accounts of the trauma provided, including previous denials, and, if appropriate, the fact that the individual has received treatment if this is likely to be at issue in the case. The prosecutor should prepare for these with an expert who can explain how traumatic memory functions and how such disclosures or denials may be consistent with an expected trauma response. The individual's privacy and confidentiality concerns in treatment records should be protected to the degree possible, subject to any disclosure requirements to protect the defendant's constitutional rights and the prosecutor's ethical obligations.

If the youth is a witness in a criminal case involving a traumatic event to the youth, their "bad" behaviors may be used by the defense to argue that the youth is a "troubled kid" and therefore not credible. However, if these behaviors started to occur after the trauma at issue in the case, the youth's changes in behavior can be used as powerful evidence to prove the

child experienced a trauma. Psychologists, working as expert witnesses, can review the evidence of changes in behavior and explain to the jury that these behaviors are consistent with PTSD. When the behaviors started after the alleged traumatic event, the behaviors are evidence the child experienced a trauma in that time frame. A child's medical records often reflect medical changes caused by the trauma. Evidence of sleep disturbances, a diagnosis of ADHD shortly after the alleged traumatic event, and complaints of headaches, abdominal pain, and other pains with no medical cause are commonly found in the medical records of youth who have been sexually abused. School records also may contain corroborating evidence of trauma, including a decline in grades, an increase in truancy and other disciplinary issues, and – for many children who are on Individualized Education Plans (IEPs) and who get assessed every three years – statistically significant declines in standard assessments, including their IQ.

4

The Impact of Trauma on Stakeholders (Victims/Witnesses, etc.)

Section Highlights: Impact of Trauma on Stakeholders (victims/witnesses, etc.)

- Minimize the number of occasions during which a witness must disclose or testify regarding traumatic events.
- Support a victim's sense of safety and control by allowing them opportunity for input into decision-making, keeping them informed of the process and the status of the defendant, providing separate waiting areas where possible, and engaging in safety planning.
- Seek appropriate accommodations for the victim or witness throughout the judicial process and coordinate with schools and treatment providers, where appropriate, to support the child in those environments as they are impacted by the case.

Court proceedings interweave the offender, victims, witnesses and other members of the community into an uncomfortable, often unwelcomed, experience. Studies show that individuals involved on either side of a criminal case may have histories of trauma, including victims and witnesses.²⁵ Far too often, prosecutors are required to negotiate cases down or dismiss cases entirely because a child witness who was assaulted is unable to testify or speak about the trauma. You can often avoid this by putting protections and supports in place. Preparations for supporting child witnesses who are trauma victims should start before the child's very first interview and continue through the trial.

As the prosecutor, you should weigh the benefits to the community and the need for public safety against the trauma and safety concerns of victims and witnesses throughout the process. Both victims' and witnesses' trauma should be accounted for during every interaction. Each time victims have to recount their trauma or witnesses have to talk about a traumatic event that they observed has the potential to cause further harm, so the frequency of their testimony should be considered and minimized.²⁵

A victim's involvement in the justice system often begins with a traumatic event. The victimizing event removes the individual's sense of *self, safety, and control*.

A victim's sense of control over their world is harmed when a crime is committed against them. This is especially true with crimes of sexual assault and violence. The justice system often continues to remove control from the victim with forced cooperation, scheduling without consultation, and plea agreements and sentencing without input. Prosecutors and advocate staff should endeavor to place control back in the hands of the victim by allowing them input into decisions being made at every stage of a prosecution. While the victim's input may not always be followed, simply the opportunity to have a say can be powerful for a victim's transition from "victim" to "survivor."

Another consequence of the trauma of victimization is the loss of one's sense of safety; the victim's view of their world and how safe they feel within it can change. The justice system should provide a sense of safety during the process. In the courthouse, safe rooms or secure waiting areas may be used. Victim safety concerns should be addressed through safety planning with the prosecution team, including other supports for the child.²⁷ Additionally, the practice of notifying the victim of the offender's custody or release should be implemented.

The prosecution team is in a position to facilitate the beginning of a personal, emotional and sometimes financial healing process for the victim.

Supports and Accommodations to Prepare Child Witnesses

As a prosecutor, you should be familiar with and provide accommodations to children in any meetings with you or the victim advocate, and during trial. You can obtain the child's IEP or 504 plan from the school, if the child has one, to make sure that the interviewers provide, at a minimum, the same accommodations that the school provides. You should also be prepared to file motions with the Court under the Americans with Disabilities Act to make sure that the child gets the required accommodations in court. A young victim or witness should be given the opportunity to see and explore a courtroom before trial so they are not surprised by the setup or what it feels like to sit on the witness stand.

Children with disabilities are victimized at rates that far exceed their non-disabled peers, especially youth with disabilities that affect their ability to communicate, including autism, deafness, and intellectual disability. In addition, children who have experienced trauma frequently develop disabilities such as PTSD, Reactive Attachment Disorder, and other disabilities as a result of the trauma. It is important for forensic interviewers, prosecutors, and victim advocates to understand the child's challenges, and to prepare for them at every step in the process.

It is also critical to make sure that the child receives necessary supports in school. As a prosecutor, you can support child witnesses by recommending accommodations to the schools. Some of the most common and successful accommodations include late-morning start times for children who are suffering from sleep disturbance and nightmares; trigger warnings sent home for planned educational content that might trigger the child's PTSD symptoms; having a "free pass" to leave the classroom at any time to go to a designated "safe space" or to see a faculty member; and being allowed to leave class early or arrive late to avoid the busy pass times in the hallway (where children experiencing hypervigilance particularly tend to struggle). These low-cost accommodations can make the difference between a child remaining in school and in the community versus requiring residential placement or being unable to testify.

Therapy is also a critical factor for a successful outcome for youth who have been victimized. Many parents and children are reluctant to engage in therapy. As a prosecutor, you can meet with families and children to explain why therapy is critical for the child's well-being. Once the therapist is in place, you should notify the therapist when stressful events are about to happen in the case, such as a bail hearing, the child's testimony at a hearing or trial, and plea negotiations. In communicating with the therapist, the prosecutor must be cognizant of their discovery obligations. The therapist can be helpful in providing recommendations for accommodations that are needed at trial, and in supporting the youth in advance of the difficult events, but the therapist must be careful to not disclose confidential communications.

Finally, it is important to note, as mentioned earlier, that trauma victims, especially children, will often delay disclosure, and frequently disclose their trauma story in pieces, over time, rather than tell everything that happened in the first interview. This is a normal process and does not make the youth any less credible. This is explained in further detail in Section 3.



PRACTICE TIPS: TO ASSIST VICTIMS

- Attempt to accommodate the victim's schedule for court dates when the victim may need to be present.
- Consult the victim prior to plea negotiations or sentencing.
- Speak with the victim early in the case about the opportunity to make an impact statement or provide one in writing.
- Create procedures by which a victim is notified of changes in an offender's custody status or violations of conditions of release.



PRACTICE TIPS: FOR VICTIMS AND WITNESSES

- Provide a full explanation of the court process and proceedings (offering/providing literature, like brochures and pamphlets, when possible).
- Let the youth cooperate but do not force cooperation, except when the benefits to the community and the interests of public safety outweigh the trauma to the victim.
- Provide a safe and secure waiting area.
- Let youth respond to questions in writing or by text.
- Adjust the lighting in the room when necessary or appropriate.
- Use simple language.
- Avoid words with possible double meanings.
- Avoid expressions and idioms.
- Allow the child to have a favorite and comforting toy (or an older child to have a fidget, such as a squeeze ball).
- Take frequent breaks.
- Explore other accommodations that could be made for children testifying if appropriate (e.g., therapy dogs, video conferencing).

5

Reframing Sentencing: The “Trauma to Jail” Pipeline

Section Highlights: Information Sharing and Collaboration

- Establish trusting relationships with other stakeholders and collaterals, including schools, child welfare agencies, providers, and families, to engage in information sharing to achieve the best outcome and support for affected youth.
- Obtain as much information as possible, including through previous court records, reports, educational plans, and treatment, to understand the youth’s trauma history and profile.
- Consider entering confidential memorandums of understanding, and/or obtaining parental consent to gain access to otherwise confidential information for use in making informed and non-punitive placement and treatment decisions.

The “trauma-to-jail” pipeline for youth is real and well-documented. The U.S. Attorney General’s Task Force on Children Exposed to Violence concluded that, “The vast majority of children involved in the juvenile justice system have survived exposure to violence and are living with the trauma of those experiences.”²⁸

Juveniles and emerging adults (defined as a ranging from 18-25 years of age) who have been involved in the criminal justice system are a particularly vulnerable population.²⁹ They are often financially and physically insecure due to family and housing instability, reduced educational attainment and earning opportunity, systemic oppression, limitations stemming from criminal records, and involvement in or experience with gangs. Immigration policies, including the uncertainty in the continued availability of relief to immigrants brought to the United States as children, and enforcement in deporting persons who have criminal convictions, also affect many youth. As a result, these youths often feel powerless, uninformed, and insecure about how to make positive changes in their lives. Compounding such concerns, these juveniles and emerging adults have disproportionately suffered significant adversity and trauma, which further reduces their ability to cope with the aforementioned risk factors. Emerging adulthood is a tumultuous time in and of itself, however for trauma-exposed youth, trauma-informed care and advocacy can be essential to their successful navigation into full adulthood. Their experience in the criminal justice system can be a turning point in their lives for better or worse, but too often they are met with contempt and fear rather than support and guidance.

The Office of Juvenile Justice and Delinquency Prevention acknowledges that adolescence – the unique journey between childhood and adulthood – is often characterized by “experimentation and risk-taking behaviors, sensitivity to peers and other social influences.”³⁰ Even more significant, only a small percentage of young people continue the kind of antisocial behavior into adulthood that rises to the level of justice involvement. Inappropriate justice system involvement can increase the likelihood of increased and continued criminality. According to national data sources, marginalized populations — such as LGBTQ youth, gender expansive youth, and youth of color — are over-represented in residential facilities.³¹ Often, these youth represent multiple vulnerable populations, underscoring the importance of exploring a multitude of trauma risk factors when engaging youth in the juvenile justice system.

Racial discrimination, poverty, and family disruption are some of the most significant contributors to foreseeable delinquency and criminal behavior. Black and Hispanic children are at higher risk even prior to trauma exposure as they are three times as likely to live in households experiencing food insecurity, which can negatively affect child development in areas of attention, cognition, and social and emotional development.³² Black children are also most likely to witness family violence, be exposed to other major violence, and experience non-victimization adversity. Poor children, those living with lesser-educated parents, those living with single parents or stepparents, and Black and Hispanic children—categories that often overlap—also experience more types of victimization and more adversity. Increased risk for victimization and adversity is further compounded for youth of color who identify as LGBTQ.³³ Notably, different forms of victimization and adversity all have independent and cumulative deleterious effects on children’s mental health.³⁴ Youth who have experienced or witnessed violence and are at-risk for the neglect of daily needs because of food or housing insecurity can struggle with anger, anxiety, and depression.³⁵

This effect is often multigenerational as many parents of children in the child welfare and juvenile justice systems were themselves in that system as children.³⁶ Black communities can exhibit a lack of attachment to, and trust in, the government and the dominant culture.³⁷ Additionally, family poverty, neglect, and traumatic stressors are associated with lower educational goals and economic attainment in emerging adults.³⁸ Growing up and living in areas affected by high rates of crime and incarceration, as many of these young people do, can cause crime to lose its stigmatizing effect and become normalized.³⁹

It is vital to consider systemic concerns and historical factors, as well as culturally-specific contributing protective and risk factors, impacting marginalized and disadvantaged groups and communities. Misconceptions, misdiagnoses, and improper handling of trauma for Black, Indigenous, and People of Color (BIPOC) drive disproportionate minority contact and mass incarceration in the juvenile and adult justice systems of the United States.⁴⁰ Youth and families of color who come in contact with the juvenile justice system as victims or offenders require a culturally sensitive approach in order to prevent the perpetuation of system-imposed trauma.⁴¹ It is vital to be aware of our implicit biases and to be responsive to the historical context of the relationships between the courts and people of color in the US. Unfortunately, the foundational legal systems at the start of our nation used law enforcement and punishment as tools for establishing racial and cultural dominance. Forced assimilation, de-culturation, and bias imposed by some members of law enforcement have contributed to historical oppression, particularly of young men of color, and have contributed to lasting racial disparities in poverty and disadvantage in these communities as well as a justified historical mistrust of police and court systems.⁴² Therefore, in contemporary context it is vital for professionals in the legal systems to be aware of these inherited traumas in order to facilitate relationship building and collaboration with these historically oppressed groups to benefit all involved parties.

These lasting disparities of racism, oppression, slavery, and segregation have resulted in communities of color, especially Black and Hispanic communities, to face increased trauma risks such as food insecurity, housing insecurity, barriers to appropriate physical and mental health treatment, sub-par educational programs and access, community violence and policing

disparities, incarceration, family disruption, and ongoing racism and ethnoviolence.⁴³ Recent research has determined that pervasive racism at multi-system levels is a catalyst for PTSD in people of color. Racism and other targeting of people of color can be conscious or unconscious, or based on implicit biases, and results in traumatic enforcement of the majority culture and expectations of behavior while simultaneously invalidating such trauma through disavowal of continued racial disparities in society and the justice system.⁴⁴ Racism does not need to be overt and hostile in order to induce trauma, studies have found that racial micro-aggressions—brief statements or behaviors that communicate a derogatory message to the person of color—can have a cumulative traumatic effect.⁴⁵ The rates of trauma in communities of color reflect the increased risk factors that they face compared to white communities as well as the lack of community and societal supports that could have mitigated trauma impacts.⁴⁶

Special considerations should also be made regarding the trauma experiences of immigrants and those with undocumented immigration status. For some, the immigration experience itself may have been traumatic. In particular, immigration without appropriate documentation and citizenship or resident status puts individuals at high risk for exploitation.⁴⁷ For others, the experience may be traumatic due to the cumulative effects of loss of property, financial burden, leaving family and support systems, not speaking the predominant language, and the processes of assimilation and acculturation. These traumas can be particularly impactful because of cultural differences in the trust in and utilization of mental health services in Hispanic communities.⁴⁸ Laws regarding legal system involvement of undocumented individuals vary by state, and it is important for prosecutors to be aware of these laws and the potential impacts of prosecution and release or sentencing conditions.⁴⁹

Trauma also drives youths' defenses and responses to perceived threats. They may display less developmentally mature defense mechanisms, such as by acting out and or regressing into less developmentally appropriate behaviors. Where the trauma is tied to shame and rejection (as is often the case with abuse and neglect or other forms of violence), the emerging adult is more likely to react to perceived disrespect or insult through rage and violence.⁵⁰ These reactions can often lead to criminal charges.

Far too frequently, children and adolescents exposed to trauma are left untreated. While they are rightly seen as victims during their youth, their needs are often overlooked until they engage in externalizing behaviors that are disruptive to the school or community. While the underlying trauma remains the same, the onset of majority (and often puberty) leads many to instead label these same individuals as “high risk” and a threat to public safety, and they are pushed along the school-to-prison pipeline.

The statistics are particularly compelling for girls. The NCTSN found in 2014 that between 70 and 96 percent of girls in the juvenile justice system had experienced trauma.⁵¹ Ninety-three percent of girls involved in Oregon's juvenile justice system had experienced sexual or physical abuse, with 76 percent experiencing sexual abuse before age 13; 81 percent of delinquent girls in South Carolina reported being victims of sexual violence; and 81 percent of girls in the juvenile justice system in California reported being sexually or physically abused.⁵² While the studies show lower correlations for sexual violence and juvenile justice involvement for boys, studies have also documented that boys are far less likely than girls to disclose sexual abuse.⁵³ Therefore, the correlation between sexual trauma and delinquency reported in the studies might be lower for boys only because boys are less likely to disclose sexual trauma.

Studies also document that the most common status offenses for girls, such as running away and truancy, have also been identified as common symptoms of abuse.⁵⁴ Violent crimes – especially unprovoked acts of aggression – may also be a symptom of PTSD in youth. The best approach is for prosecutors to look carefully at what underlies the conduct and focus on therapeutic treatment options early and often.

Once detained or incarcerated, the adolescents and emerging adult's experience additional trauma. Despite reform efforts, detained and incarcerated youth continue to experience systemic maltreatment. For example, solitary confinement — also known as disciplinary detention, where affected youth can be isolated for up to 23 hours a day and deprived of basic necessities such as bedding, showers, and mental health treatment — continues to be used in many locked facilities across the country despite its potentially devastating, long-term consequences on normal adolescent development.⁵⁵ Youth in locked facilities are also at increased risk for being victimized, including physical assaults and sexual victimization.⁵⁶ These policies and procedures can undermine the rehabilitative goals of the juvenile justice system and can further increase the likelihood for detrimental developmental, emotional, mental, and physical outcomes. These youth are often released without necessary or sufficient trauma-informed treatment and with even further diminished capacity to successfully transition into adulthood with adequate social ties. System-involved youth are the most educationally “at risk” of all student populations: “They graduate at lower rates, score lower on standardized tests, have higher rates of special education eligibility, and are more likely to repeat a grade than their non-system involved peers.”⁵⁷

As a prosecutor, you should consider the following strategies when working with individuals of color or historically marginalized communities in order to facilitate beneficial outcomes and to prevent further trauma):

- Normalize conversations about race and implicit bias in your workplace and offer regular trainings aimed at assisting your staff to grapple with their own implicit biases and how these biases may show up in their work.
- Cultivate open and transparent conversations with people of color with acknowledgement of history and the power-dynamic can increase trust and collaboration.
- Increase participation in community initiatives that create platforms for people of color to express their concerns and ideas for justice reform and addressing crime in their communities, value their voices and credit them for the expertise they hold for their own circumstances.
- Make conscious efforts for diverse and inclusive hiring so that people of color feel represented within all facets of the system.
- Collaborate with cultural liaisons and experts when determining best practices for intervention and for assessment of trauma.
- Commit to growing in awareness and understanding of various considerations regarding the impacts of court involvement and prosecution on individuals and families who lack immigration status.
- Use gender-responsive and specialized services, given the overrepresentation of LGBTQ identifying youth in the justice system.

Forging a New Path.

As emerging adulthood is a time of defining community and determining one's place in society, it is crucial that trauma-exposed youth (particularly those of color) feel like they are accepted by the community and welcomed in society. Fortunately, emerging adulthood is a time of continued development, exploration, and change (including the possibility of healing the effects of past trauma). Studies have shown that “seven pillars” serve as a foundation of success for transitioning youth who have experienced adversity: relationships, education, housing, life skills, identity, youth engagement (meaning agency over transition decisions), and emotional healing.⁵⁸ Implementing elements of these “pillars” into the juvenile and criminal justice system can serve as a protective factor to successful transitioning into adulthood. Continued brain development during emerging adulthood, coupled with new understanding of the neuroplasticity of the brain to heal from the effects of trauma, would make such interventions serve as a strong protective factor for these emerging adults. A justice system that recognizes the effects of trauma and seeks to treat emerging adults while helping them forge ties to the community and strong social supports can reposition them for a successful adulthood.

6

Transitions and Placement Decisions

Section Highlights: Screening and Assessment

- Use available trauma-screening tools as an initial indication of whether victim or witness is impacted by trauma and to determine whether further assessment is appropriate to support the victim or witness.
- Identify further appropriate supports and treatment by using comprehensive, trauma-informed assessments performed by mental health professionals, or obtain previously completed provider or school assessments.

The juvenile court system was established with the primary goal of rehabilitation. Any overemphasis on balancing legitimate public safety and victims' rights goals runs the risk of conflicting with the juvenile court's rehabilitative objectives. Most jurisdictions now recognize that both public safety and rehabilitation are achieved when youth feel fairly treated, physically and psychologically safe, and receive appropriate services. Psychological safety is a sense of safety, or the ability to feel safe within one's self and safe from external harm. A lack of psychological safety can affect an individual's interactions with others, lead to a variety of maladaptive coping strategies, and result in anxiety and in ability to recover from traumatic events.

Removal from home on a juvenile delinquency case can have significant implications for a youth's sense of physical and psychological safety. According to one national study, over 40% of the children placed in residential facilities have "no documented clinical or behavioral need" that justifies such placement.⁶⁰ Additionally, even when youth are identified as children in need of support, there are still too few community-based options that provide the necessary treatment in the least restrictive environment.

While sometimes the best or only viable alternative, removal of a youth from his or her home also makes it more difficult for treatment providers to address the underlying issues that may be contributing to the youth's behaviors, which in turn negatively affects the likelihood for rehabilitation and long-term public safety. Furthermore, recent research highlights the significant risks for trauma exposure in detention and incarceration settings, and related studies of youth in child welfare settings show that frequent placement changes are associated with poor outcomes.⁶¹ For dually-involved youth, removal from a home environment where there is neglect, abuse, or other influences that are negatively affecting a youth's behavior may improve his or her physical safety, but removal from an unsafe physical environment may result in a lack of psychological safety for that youth. This lack of psychological safety can negatively affect a youth's rehabilitation, and ultimately, public safety. Additional trauma can be caused by forceful removal from the family or community and undermine a youth's sense of safety. Any decisions involving removal should be carefully considered.

You should consider whether the consequences imposed are the best option under the circumstances. For example, a youth who fails to attend a mandated session with a service provider in a particular neighborhood may be automatically perceived as non-compliant, but the youth's failure to attend the session could be a result of a trauma reaction (i.e., flight) in response to entering a neighborhood where that youth experienced community violence. This could be accommodated by changing service providers rather than initiating punitive measures for failure to attend mandated treatment. This approach, paired with ongoing trauma-focused treatment that provides tools for youth to manage their responses when triggers are present, provide options for addressing concerns about public safety while also focusing on youth rehabilitation. As a prosecutor, you should be trauma-informed and think of "outside-the-box" solutions that will both keep the community safe and may provide the best outcome for youth.

Placement. The best outcome in the interests of justice should always be considered in placement determinations. Too often, multiple placements can serve to harm rather than rehabilitate the youth, which can lead to an increased risk to the community. Listening to the voice of the youth in the proceedings will help the youth feel that he or she has some control in a process that can otherwise be overwhelming and even traumatic. Defense attorneys may not advocate for what they view as the youth's best interest if it conflicts with what the youth wants or is willing to agree to. The best interest of the youth and community may be that he or she remains with the family, and the attorneys should identify support mechanisms that will assure the court that the youth can safely remain in the home. Social workers, community members, and probation officers may be helpful in identifying community-based options that can succeed. In cases where it is necessary that a juvenile be removed from his or her home, placements in less restrictive, community-based programs that can provide a physically and psychologically safe home environment can be considered before a secure confinement option away from any stability and support structures the youth currently uses. The need for a secure and/or remote confinement should be weighed against any negative impact from many of the elements inherent in secure confinement settings, such as strip searches, restraints, fear of aggression by staff or fellow residents, and an increased risk for sexual abuse, which may also be particularly triggering for youth with a history of trauma.⁶²

Many youth, including those in the juvenile justice system, have strong attachments to their families and home communities, even if the family and home community have been a source of stress and/or trauma. In fact, even when a youth has experienced trauma within these familiar environments, the youth may remain attached and can be further traumatized by complete loss of such contacts. As such, court-ordered placement outside the home can have a trauma-inducing effect on youth. In cases where extended family members can offer long-term support for a traumatized youth, it is recommended that youth stay connected (as defined by the youth) with siblings, relatives and extended family, coaches and clergy, and mentors and friends whenever possible. Research suggests that prosocial support offered by family members, neighbors, teachers, and peers can reduce the likelihood of antisocial behavior. These "buffers" (also known as protective factors) include positive relationships with adults, leading to healthy beliefs and clear standards of behavior. According to researchers at the University of Washington, such "protective bonding" requires the following conditions for young people to actively participate and contribute in community: opportunities; skills as a measure success; and consistent reinforcement.⁶³

In some circumstances, factors within a youth's community may create a safety risk for the youth that makes removal from his or her family and/or community unavoidable. In those instances, it's important to consider and carefully balance both risk and protective factors. In cases where an out of home or out of community placement is unavoidable, attorneys should consider a placement close to the youth's home community so that the youth can maintain connections with their support systems, including extended family, church, school, teachers, mentors, and coaches. Particularly when a youth is placed outside

of their home community, it is crucial for youth to have some stability, continuity, and connections with adults that the youth considers important to them. A youth might also be able to remain in the same school to provide some consistency, unless moving to a new school is a goal. Having a stable, nurturing relationship with an adult can facilitate tremendous healing and develop resilience for a child who has experienced trauma.⁶⁴

One positive relationship with an adult can make all the difference for a youth.⁶⁵ Specifically, having a stable, nurturing relationship with an adult can facilitate tremendous healing and develop resilience for a youth who has experienced trauma. You as the prosecutor can help the child identify adults to potentially fill this role by asking about natural supports, such as immediate and extended family, trusted staff at school, coaches and leaders of extracurricular activities, spiritual community leaders, or other community members.

Transitions. The negative impact of transitions to and from out-of-home placement can be lessened through thoughtful, planned decisions, taking into consideration the best interests of the youth (and the interests of justice) regarding detention, disposition conditions, placement, and reentry. Specifically consider:

- Finding the least restrictive alternatives to detention at disposition, as well as the least restrictive and fewest conditions or services that achieve the goals of rehabilitation and protection of the public.
- Understand the appropriateness of any placement based on the youth's emotional, social, developmental, educational, and medical status and expressed goals.
- Permitting family contact with the youth while in out-of-home placement, if in the interests of the youth.
- Acknowledge the short-term and long-term consequences of the placement and conditions, and the danger of not providing trauma treatment that could be beneficial.
- Assisting youth who are reentering the community from confinement or from other non-home placements to reconnect with school, employment, and families in a way that promotes rehabilitation and success. Assure youth are assisted in the reentry phase and where possible, hold other stakeholders accountable for fulfilling the requirements of the court's rehabilitative order. Too often, youth are terminated from placement or supervision with no plan for successful reintegration, which sets youth up for failure and a return to the justice system.

Considering trauma under the Americans with Disabilities Act

Applying the Americans with Disabilities Act ("ADA") to judicial decision-making—including determinations of whether an individual is an appropriate candidate for probation or diversion—is an underdeveloped approach to sentencing determinations affecting trauma-affected individuals. The ADA guarantees that people with disabilities have the same opportunities as everyone else and prohibits discrimination in the receipt of public services (42 U.S.C. §12132 (2012)). The ADA does not specifically name all of the impairments that are covered. A diagnosis of post-traumatic stress disorder ("PTSD"), or acknowledgement that an individual is suffering cognitive and behavioral limitations resulting from the effects of trauma, should suffice (see EEOC, 1997 (including PTSD and anxiety disorders among mental impairments that could qualify as a disability under the ADA)). If an individual has a disability under the ADA, reasonable accommodations must be made in governmental determinations, including sentencing decisions and eligibility for and participation in diversion programs, probation, parole, and the conditions of release at arraignment and probation at sentencing. The determination must be made only after considering how the individual's limitations affect their eligibility, including whether symptoms of the disability are impacting courtroom behavior or compliance with previously-imposed conditions or criteria, and whether their limitations can be mitigated with reasonable accommodation (See, e.g., *Crowell v. Massachusetts Parole Board*, 477 Mass. 106 (2017) (finding that the parole board failed to consider how a disability limits the defendant's ability to comply with conditions and failed to consider accommodations)). Protections under the ADA may prevent a court from excluding a youth from probation, punishing him or her for an inability to comply with court conditions or maintain "courtroom demeanor," or excluding him or her from diversion programs or other alternative dispositions. Participation in a program specifically addressing the impact of trauma and focusing on rehabilitation of the youth may be a reasonable accommodation to his or her trauma-related disability.

Section Highlights: Specialty Courts and Diversion

- Consider diversion programs, which should offer reasonable requirements, early feedback and assistance, and helpful rather than punitive responses to noncompliance to promote rehabilitation and success.
- Consider whether eligibility requirements with strict communication, financial, and travel requirements discriminate against youth from economically challenged communities or who have been impacted by trauma.
- Evaluate and implement options for informal, formal, and post-dispositional diversion.
- Match youth with community-based programs specifically designed to meet their needs, help them understand the impact of trauma, and develop their strengths.
- Consider restorative justice alternatives that serve to help a youth take responsibility and understand the impact of his or her actions on others and take steps to ameliorate any harm caused, while reintegrating that person back into community without a formal criminal record.

Recent developments in criminal justice have recognized the pressures and circumstances that can lead to criminal behavior and the specialized rehabilitative needs of particular offenders. The most broadly established specialty courts respond to the specific rehabilitative needs of veterans and persons suffering from substance use disorder and mental illness. Society recognizes that the struggles faced by veterans and drug users did not occur in a vacuum, and the community itself bears some responsibility in supporting these offenders' reintegration into the community.⁶⁶ Society equally bears responsibility for the systems failures, racism, poverty, and lack of response to the trauma and adversity faced by youth in urban communities. Yet while the goals of specialty courts are admirable and many of the components of those courts can be adopted, the approach taken with emerging adults affected by trauma must be adapted to meet their specialized needs, which differ from those of veterans or drug users in key aspects.

Specialty courts, including Drug Courts and Veterans' Courts, employ a more collaborative and non-adversarial model in addressing the underlying challenges of the offenders with the goal of reintegrating them into the community. Rather than focusing on punishment, the goal is support and restoration through an individualized treatment plan, with the ultimate goal of public safety and reduction of recidivism: "Ultimately, the judge aggressively uses judicial authority to motivate defendants to accept needed treatment and monitor their compliance and progress with that treatment."⁶⁷ Veterans' Courts understand the difficulty experienced by veterans in trying to assimilate back into community after service, and that the common trauma and mental health issues they face can lead to a sense of "survival mode" and behaviors such as risk-taking, aggression, exaggerated startle response, violent reactions, mood swings, apathy, irritability, depression, and acting impulsively.⁶⁸ In all specialty courts, some degree of relapse is expected and is met with the goal of getting the offender back on track with treatment rather than punishing him or her for misconduct.

Successful specialty courts for young adults and diversion programs will recognize that these young people do not merely need to be reintegrated into the community but need to be integrated into community in the first place. Unlike veterans who have already established their ability to engage with and succeed in societal structure, these young people typically live outside of the dominant systems and have justified skepticism of the dominant systems given personal or family experiences of system-induced and historical trauma. As such, these youth may have challenges accepting the authority, structure, and rules of the dominant system. This stance is developmentally appropriate for emerging adults but is heightened for youth of color and for those who have experienced trauma. This is especially true when they live in marginalized neighborhoods with elevated rates of incarceration. Elevated rates in their neighborhoods may be due to over-policing and limited access to resources that facilitate opportunities for stability, such as quality healthcare, education, and housing. Many of these disparities stem from red lining policies and other laws that systematically excluded people of color from economic opportunities. They face many of the same challenges and maladaptive "training" as veterans—urban combat, internalized pain, hypervigilance, aggressiveness, learning the rules and culture of the "street"—received in the very communities that now expect them to succeed. Further complicating their integration, marginalized young people may not have opportunities to develop the baseline skills for success, and traumatic stress reactions (i.e., a focus on survival) may make it more difficult to comply with common probation requirements that they finish school or maintain employment.

The extrinsic motivation model of the specialty courts that emphasizes a top-down approach, utilizing heavy judicial involvement and authority, does not serve these youth well. Simply put, emerging adults and youth who have been traumatized may

not trust the authority of the court system, are often not capable of completing the purposefully more demanding requirements of specialty courts, or may not have the parental support or resources to navigate complicated procedures or to even get transportation to programs and court dates. Instead what is necessary is to first gauge the youth and emerging adult's abilities and resources to comply and then to develop intrinsic motivation in the youth. Relapse should be expected and the youth's life circumstances (as noted above), including exposure to substance use in the home and community, should be anticipated and considered. Intrinsic motivation can be developed by engaging in motivational interviewing and involving the participants more in decision making and responsibility over their own change process. Restoring a youth's belief that he or she can exercise agency in charting their life course is one of the foundational pillars for success.⁶⁹

Court procedures can often feel unnecessarily cumbersome, unhelpful, or overwhelming to a young trauma-exposed youth. Programs and specialty courts should ensure that the structure and rules it imposes are intentional and designed to facilitate the young person's rehabilitation and success in the program or necessary for safety, rather than setting up the youth for a violation or failure. Research studies have demonstrated that adults who commit serious violent crime have backgrounds with a significant number of adverse childhood experiences (ACEs).⁷⁰ When young people are routinely exposed to ACEs such as household violence and parental incarceration, for example, this chronic exposure increases the likelihood for detrimental developmental, emotional, mental, and physical outcomes. As a result, youth with diverse and complex needs struggle to complete diversion programs. Consequently, eligibility requirements with strict communication, financial, and travel requirements discriminate against youth from economically-challenged communities. Therefore, diversion programs should offer reasonable requirements, early feedback and assistance, and helpful rather than punitive responses to requirement failures.

Diversion can occur at any stage in the juvenile justice system (arrest, pre-disposition, and post-disposition), both formally and informally.⁷¹ Informal diversion steers youth away from the juvenile justice system altogether, while formal diversion requires youth who have been formally processed to complete programs with requirements and services in lieu of adjudication. Adjudicated youth can be diverted post-disposition to avoid secure confinement. Such programs can hold youth offenders accountable, while also serving as opportunities for pro-social support with the help of their families and communities.

Despite the increasing use of juvenile diversion across the country, there are no national set of standard policies and procedures, or mandated requirements of any kind. There are six generally accepted components involved in juvenile diversion: target population; points of contact; formal and informal processing; setting; structure; and the intervention(s) offered.⁷² The two variables with the most variety in recent applications include setting and services. Community settings are generally more preferred where correctional environments increase the potential for diminished positive treatment outcomes and exposure to antisocial peers. Interventions that are tailored to address risk levels and target criminogenic needs should also build on strength-based models that can offer additional support (such as academic enrichment and emotional hygiene).

In diversion, one size does not fit all. Diverted youth are most successful when they are matched with programs specifically designed to meet their needs and develop their strengths. Jurisdictions with zero tolerance eligibility requirements for communication, fees, and travel disproportionately and adversely impede low-income youth with access to limited resources.⁷³

Specialty courts and programs should help youth learn they are capable of exercising agency in their lives and help them to understand how trauma has impacted them and their own resiliency and ability to change (including psychoeducation about the effects of trauma and understanding their own ongoing juvenile brain development and neuroplasticity, which make it possible for the brain to heal from the effects of trauma). A strengths-based approach that emphasizes hope for the future can help to provide the youth with the resiliency and protection to overcome the significant challenges they face.⁷⁴ As this process can involve relapse and may be iterative in nature, participation in a specialty court or diversion program should be considered by you whenever the circumstances merit it rather than seen as a one-time, all-or-nothing approach.

Disproportionate Minority Contact (DMC) refers to the disproportionate representation of ethnic, racial and linguistic minority youth in the juvenile justice system. Where research confirms that youth of color are arrested at double the rate of their white peers, juvenile diversion has the potential to reduce the front-end disparities that lead to the criminalization of low-risk youth, and the subsequent collateral consequence of over-representation of people of color throughout the criminal justice system.⁷⁵ For low-risk youth, informal diversion can help marginalized populations access the services needed to deter future justice involvement. However, such programs should guard against the potential for excluding youth of color when relying on strict eligibility rules and requirements. Additionally, program completion must also be prioritized through the use of proportionate responses to compliance issues.

Recent studies suggest that the most successful programs provide intensive, comprehensive services based on the youths' level of risk for offending over an extended period in community-based programs.⁷⁵ Ideally, community-based alternatives will reduce stigma and recidivism, provide youth with role models and positive peers, improve school engagement, and increase overall levels of youth functioning.⁷⁶ With a well-designed court or program, the community and public health is improved through reduced recidivism, increased educational and employment attainment, and the development of better relationships and emotional control. These results can help stop the cycle of intergenerational poverty and trauma.

Restorative Justice Approaches

More frequently across the country, restorative justice approaches are being used in specialty courts to address relapse and violations, in diversion programs, and as stand-alone alternatives to prosecution. Ideally, restorative justice serves to help a youth take responsibility and understand the impact of his or her actions on others and take steps to ameliorate any harm caused, while integrating that person into community without a formal criminal record.

Restorative justice typically requires the consent of both the youth and the victim to take an alternative approach to normal criminal prosecution. Alternative dispositions can be considered that will protect the victim from any future harm, such as those involving stay-away or no-contact orders. However, as with specialty court and other diversion requirements, the youth's circumstances and resources should be considered so that any agreement is not overly burdensome and does not expose the alleged juvenile offender to further trauma and setbacks for recovery.

Diversion programs for high-risk youth, which focus on restorative justice practices, are showing potential with reducing re-arrest, while using pro-social supports to hold offenders accountable and acknowledge victims.⁷⁷ When low-risk youth are formally processed instead of informally diverted – a process known as net-widening – recidivism generally increases. At the same time, low-risk youth can only access the services that are actually available in their communities.

CASE STUDY

In 2012, the American Bar Association (ABA) awarded the Montgomery County (PA) Disproportionate Minority Contact (DMC) Committee a Racial Justice Improvement Project (RJIP) grant to create a taskforce and address the problem of racially disparate outcomes in Montgomery County's criminal justice system. Specifically, the ABA challenged the RJIP Task Force to (1) create, implement, and evaluate a unique pilot program specifically designed to reduce minority arrests; (2) implement other programs or policy initiatives that reduce minority arrests; and, (3) educate stakeholders and community members to empower other Montgomery County community groups to achieve the Racial Justice Improvement philosophy.

The RJIP concluded that an analysis of the availability, use and completion of the Montgomery County District Attorney's (MCDA) Youth Aid Panel (YAP) – the only official, prearrest diversion program for juveniles accused of certain summary and misdemeanor offenses – would provide the best understanding of any issues contributing to prearrest disparities. Furthermore, because successful completion of YAP negates arrest, the RJIP recognized YAP as key to reducing Montgomery County's disproportionate arrest statistics.

After then-current data was collected and analyzed, it was determined that three programmatic policy changes needed to be implemented to ultimately demonstrate that pre-arrest diversion would be an efficient and appropriate use of community and criminal justice resources; mitigate the lasting collateral consequences of conviction; provide for the rehabilitation of the accused; allow for justice and proportionality in individual cases; and, promote public safety. The three programmatic policy changes included expanding the eligibility criteria for youth diversion, creating an objective law enforcement referral process for juvenile diversion, and implementing a case management system to support success for diverted youth.

With a 92% completion rate, the RJIP demonstrated that: (1) the YAP eligibility expansion successfully allowed more black juveniles to participate; (2) the objective YAP law enforcement referral standard was successful, and a county-wide standard policy should be implemented; and, (3) the addition of case management services offered to YAP participants increased the completion rates for black juveniles.

Additionally, Law Enforcement can play a significant role in reducing juvenile arrests. A program initiated by former Philadelphia Deputy Police Commissioner Kevin Bethel (<https://thenotebook.org/articles/2018/12/09/with-police-diversion-student-arrests-plummet>) realized a 71% decrease in the first year of implementing “a discipline philosophy that rewards positive behaviors, considers the impact of trauma on students, and rethinks the single-minded reliance on punishment.” According to this Study (<https://www.ncbi.nlm.nih.gov/pubmed/25703485>), “there exists an injurious relationship between early childhood trauma and subsequent chronic antisocial behavior above and beyond the influence of major risk factors for crime (gender, race, age of onset, impulsivity, peer influence, and socio-economic status).”

Other jurisdictions have also discovered the benefits of cross-sector collaboration to challenging racial disparities in diversion programs (<https://www.behavioral.net/article/policy/diversion-programs-offer-fresh-approach>). Launched in Seattle in 2011, Washington State's Public Defender Association's Law Enforcement Assisted Diversion (LEAD) programming has grown into a national movement. “By exposing neighborhood and law enforcement partners to the trauma origins of many dysfunctional coping behaviors, people struggling with very difficult challenges are humanized, and genuine relationships established and deepened.”

As a result of the relationships established through the RJIP, Montgomery County District Attorney's Office has agreed to include Youth Court Panel Members as decision-makers for YAP. By offering “protective bonding” to non-violent juveniles who have committed a criminal offense – while connecting them to law enforcement agencies, public resources, and trained adult volunteers – YAP defendants will be offered the opportunities, skills, and consistent reinforcement needed to grow into healthy community contributors.

As Kevin Bethel's program demonstrated, when juvenile justice stakeholders are trained and responsive to the trauma needs of the population they serve, serious incident reports decrease as awareness and prevention strategies and programming increase.

Section Highlights: Reframing Sentencing

- Understand that adolescence and emerging adulthood is often characterized by experimentation and risk-taking behaviors, sensitivity to peers and other social influences and seeks the goals of defining community and determining one's place in society.
- Become more knowledgeable about historical and systemic racism and oppression and how they have resulted in communities of color, especially Black and Hispanic communities, facing increased trauma risks such as food insecurity, housing insecurity, barriers to appropriate physical and mental health treatment, sub-par educational programs and access, community violence and policing disparities, incarceration, family disruption, immigration consequences, and ongoing racism and ethnoviolence.
- Recognize that displaying racism and other targeting of people of color can be conscious or unconscious, or based on implicit biases, and results in traumatic enforcement of the majority culture and expectations of behavior while simultaneously invalidating such trauma through disavowal of continued racial disparities in society and the justice system.
- Know that most juveniles involved in the justice system experienced trauma in childhood and were often untreated or misdiagnosed, and can suffer additional trauma if detained.
- Understand that it is critical that trauma-exposed youth (particularly those of color) feel like they are accepted by the community and welcomed in society.
- Integrate the foundational “seven pillars” of transition (relationships, education, housing, life skills, identity, youth agency, and emotional healing) in diversion, conditions, and sentences for youth who have experienced adversity. (See Sidebar on page 24.)

You as the prosecutor are central to the justice system. At each decision point, you play a role that collects and digests as much information as possible to make the best decision for the juvenile and the community. There are times that information does not flow to you as seamlessly as it should, either due to statutory constraints on information sharing with collateral sources (e.g., treatment providers, schools), or concerns from the providing party as to how the information may be used (i.e., the defense attorney or juvenile's guardian). The key to collecting and accessing information from all stakeholders is to focus on the best outcome and not simply punitive results (or results that are punitive in nature). This focus will build trust over time, ensuring better outcomes for victims, witnesses, defendants, and the community at large.

Initially, you should have access to all law enforcement related information regarding the juvenile, such as police reports, history of dependency/delinquency proceedings, and relevant law enforcement contacts. In some instances, community members, police officers, or school resource officers may have extensive interactions with juvenile defendants, victims, and witnesses. Oftentimes, they can provide useful background information. This will help build a profile of the youth involved and should begin to indicate how to handle an incident.

The next step is for you to collect as much personal information about the youth as possible. Medical and psychological profiles for youth are extremely important – understanding a youth's trauma history, mental health, or behavioral health, can actually change the outcome of a case. However, there are many barriers to collecting personal information for juveniles, including the ethical and statutory requirements of medical and psychological professionals that do not generally allow the sharing of information. Educational history is also extremely important. School attendance, individualized educational programs, and prior disciplinary issues can all factor into dispositional conditions. A prosecutor should obtain the child's IEP or 504 plan from the school, if the child has one, to make sure that the interviewers provide, at a minimum, the same accommodations that the school provides. These institutions are often less strict than medical and psychological providers, but still have confidentiality limitations. Any involvement with child protective services should also be considered – if a youth is involved in protective services, who maintains their custody, their housing, guardianship stability, and ongoing treatment plan should all factor into the handling of a case.

Defense attorneys are in the unique position of being ethically and legally required to advocate for the client's *expressed* interest, which may not always correspond to their client's best interest. This is a difficult position. On the one hand the

juvenile system acknowledges that juveniles' brains are not fully developed, which significantly affects the ability to make thoughtful decisions at this developmental stage. On the other hand, juveniles are allowed to make decisions about their defense, including what information about them or the offense should be shared, whether they plea or go to trial, and what treatment and rehabilitative conditions defense counsel should seek. Not many juveniles with behavioral concerns are asking their counsel to push for invasive treatment options and gang involved youth may not be asking for exclusion zones, but both may actually be in a juvenile's best developmental and safety interests. You need to be aware of the defense attorney's role and responsibility throughout the process and factor that into information shared. It's also important to recognize your duty as the prosecutor to seek the interest of justice, which involves what is in the best interest of the juvenile defendant, witness, victim, and the community.

Consent from the juvenile through their attorney, a court order, or parental consent are often the only ways to access much of this information. In most states, there is no legal or ethical reason why as a prosecutor, you cannot seek information, or consent to collect information, from a parent or guardian. The juvenile's attorney does not represent the parent or guardian. Contracts can be used to ensure that information obtained will be used only in treatment and programming decisions (such as in creating a diversion plan) and will not be used against the juvenile during litigation.

Sharing information with other collaterals can be equally difficult to navigate. Many states exclude certain types of juvenile cases from "public information" in an effort to protect the juvenile. A prosecutor may violate these laws by confirming the existence of an investigation or an open case. These rules vary widely by state. Information sharing with a juvenile's therapist might also be necessary for someone who has been victimized. As a prosecutor, you can notify a treating therapist when a stressful event is about to happen in a case, such as a bail hearing, testimony at a hearing, or trial or plea negotiations. A therapist, in turn, can help to make recommendations and suggest accommodations that support the juvenile throughout the court process. You must be extremely careful not to interfere with the child's patient/therapist privilege.

Any information obtained from collateral sources should factor into every relevant decision point, from decisions about whether to divert or formally prosecute the case, which charges to seek, conditions of bail and releases, through decisions regarding disposition.

9

Screening and Assessment

Section Highlights: Transitions and Placement Decisions

- Achieve both public safety and rehabilitation when youth feel fairly treated, feel physically and psychologically safe, and receive appropriate services.
- Determine placement by considering the youth's sense of psychological safety, relationships, and support systems in the community, such as in school, with extended family members, with treatment providers, and with faith or community organizations.
- Evaluate both risk and protective factors in a community, including the need for stability, continuity, and connections, before removing a youth from their home community.
- Consider the impact of trauma and trauma-reactions on the youth's behavior when evaluating compliance with conditions and treatment.
- Select the least-restrictive alternative and the fewest interventions to adequately support and rehabilitate the youth, protect the community, and promote successful reentry and connections in the community.
- Consider the impact of trauma and accommodations required under the ADA in diversion, sentencing, imposing conditions, and placement decisions.

Trauma exposure increases individuals' risk for criminal behavior and involvement with the criminal justice system. For a prosecutor to work toward a disposition that benefits the community at large and is in the interest of justice, learning as much information about the defendant's criminogenic needs (i.e., what increases their risk for criminal behavior), as noted in the section above, is key.

In many jurisdictions, evaluations of the defendant are not available to the prosecutor until the defense has reviewed them and agreed to their release. Sometimes these evaluations are conducted by an internal court clinic and sometimes the defense attorney may seek an independent evaluation. To the extent possible, if an evaluation is provided to better understand the defendant's history and needs, agreement should be reached that you will not use the evaluation against the defendant directly in court. This can work to the benefit of all parties.

In this section we will distinguish between screening and several types of assessments. Your office should have the ability to conduct brief trauma screenings for victims and witnesses, as well as refer victims and witnesses for more comprehensive trauma-informed assessments.

Screening

Trauma screening refers to a brief set of questions administered to children, adolescents, parents, or caregivers to identify clients who are likely suffering from trauma-related impairment. There are a variety of trauma screeners available and most can be administered by many different professionals (see [NCTSN Measures Review Database](#) for options and the resource list for an example of a trauma screener). Screening can be conducted by anyone appropriately trained to use the screening tool and does not require a formal mental health license. These screening tools are meant to be preliminary and are not comprehensive. They also do not result in a diagnosis; they simply identify whether further assessment may be needed. The prosecutor, the victim and witness advocates they work with should make this form of assessment available to victims and witnesses, either internally or externally.

Assessment

A trauma-informed mental health assessment refers to a comprehensive evaluation conducted by a trained mental health provider such as a social worker, psychologist, or psychiatrist. The goal is to determine if the individual is suffering from traumatic stress or other mental health problems and to generate recommendations for treatment or other social services, if indicated. The provider conducting the assessment gathers information on trauma experiences or symptoms along with other mental health symptoms, medical issues, academic and employment history, family dynamics, and strengths exhibited by the youth and supported by parents, family, and the community. A thorough assessment should include information from several sources, including clinical interviews with the youth, caregivers, and collateral informants; review of client records (school, medical, court, and mental health treatment); and behavioral observations.

There are other types of assessments that may be relevant for defendants in juvenile justice cases but differ from trauma-informed mental health assessments. For example: a **psychoeducational assessment** focuses primarily on evaluating a youth's academic functioning. Such evaluations may be warranted for clients who are experiencing significant academic or vocational problems or are suspected of having undiagnosed learning disorders or developmental delays, which is quite common among youth with prior trauma exposure involved in the juvenile justice system. A **neuropsychological evaluation** focuses more specifically on the intersection of brain and behavior and is used to determine whether deficits in certain areas of the brain or in brain functioning may be contributing to changes in behavioral and/or cognitive functioning.⁷⁸ If available and relevant, these types of assessments may add to the recommendations provided in a trauma-informed mental health assessment, but they are not a substitute and are not necessary for every youth.

A Trauma-Informed Assessment Should Include the Following:

- Social/family/school/legal history.
- Trauma history.
- Behavioral and mental health problems and the role of trauma reactions in those problems.
- Strengths and resources.
- Summary formulation of potential diagnoses and the role of trauma reactions in each.
- Goals for rehabilitation with a focus on modifying trauma reactions.
- Recommendations for placement, sanctions, monitoring, and services based on trauma formulation.

Section Highlights: Treatment, Resiliency and Recovery

- Acknowledge that not all youth who have been exposed to trauma are negatively impacted to the extent that treatment is necessary.
- Select a treatment or provider that is evidence-based and trauma-specific or trauma-focused to increase youth engagement and promote treatment success, where treatment is appropriate.
- Help youth develop skills that promote resiliency and recovery through resources that help them identify life goals, develop optimistic expectations for the future, feel a sense of control over their life, connect with social support systems, and create an ability to reframe their life experiences in a way that promotes stress management and helps manage frustration.

Recognizing the nuanced responses youth may have after experiencing traumatic events involves identifying signs of resilience and recovery, as well as impaired functioning. Resilience speaks to a youth's ability to adapt, function, and thrive following a traumatic event, whereas recovery reflects the ability to regain functionality after initially experiencing traumatic stress reactions. Both highlight the importance of focusing on youth functionality in key areas (e.g., social, academic) after experiencing a traumatic event, as well as strengths or supports that bolster adaptive functionality once adversely impacted by trauma.

Common contributors to both resilience and recovery include identifying life goals, developing optimistic expectations for the future, feeling a sense of control over one's life, connecting with social support systems, and creating an ability to reframe one's life experiences in a way that promotes stress management and allows for development of constructive strategies for addressing frustration.⁷⁹ For recovery in particular, the ability to employ problem-solving strategies and practice healthy emotional expression (i.e., active coping), even after an individual experiences strong, acute traumatic stress reactions following trauma exposure, is essential and has been linked to resilience.⁸⁰ As many of the factors contributing to resilience and recovery are learned skills, it is essential for attorneys to understand how to work with youth to maximize their use of these skills and to advocate for resources that best position youth to bolster underdeveloped or underused skills.

In many cases, prosecutors can play an important role in helping youth who are experiencing traumatic stress symptoms, including victims, witnesses, and defendants, connect with effective mental health treatment that promotes healing and builds resilience, which in turn increases public safety. Trauma-specific or trauma-focused treatment refers to mental health interventions designed to help people recover from traumatic stress. There are multiple trauma-focused treatments for adolescents that are "evidence-based" (i.e., shown effective in rigorous research studies), although only a few have been tested and shown effective with youth involved in the juvenile justice system.⁸¹ Trauma-specific treatments can include individual treatments (1:1 counseling for youth), group treatments (for multiple youth), and treatments designed for the youth and parent(s) to work together. Trauma-focused treatments can support clients' resilience by helping them understand the ways they have been affected by trauma, developing effective coping and problem-solving skills, building on their strengths, reducing trauma-related symptoms, and improving functioning in multiple areas (e.g., social, academic, developmental).

The key to effective treatment is appropriate treatment. In considering whether treatment is appropriate in any given case, it is important to note that not all youth exposed to traumatic events experience residual trauma reactions that interfere with functioning or require mental health intervention. As such, it is important for you to consider each case individually and seek consultation with a mental health professional for guidance whenever possible. Moreover, exposure to trauma does not mean that youth are irreparably damaged. Even severely traumatized youth and adults can recover and thrive after trauma with the right supports, including effective mental health treatment. Attempts to over-pathologize youth as damaged or only capable of success if thrown into intense and all-encompassing "services" can result in further harm and result in the opposite of the desired impact. Such a lens discounts individual resiliency. There is a danger of court systems using trauma as a "net widening" tool that pulls youth deeper and deeper into the court system, where the threat of further traumatization is a real

peril. Similarly, using a trauma-related diagnosis or symptoms as a marker for imposing harsher punishment and disproportionately longer involvement in the system can further derail youth and decrease public safety in the long-run. It is far more important to tailor the appropriate type of treatment to a youth's specific needs.

Additionally, not all treatments are trauma-informed, including many of the treatments commonly mandated for justice-involved youth (e.g., parenting groups, substance abuse treatment, anger management). Youth with traumatic stress are less likely to benefit from such interventions and more likely to end treatment prematurely, which may result in needlessly harsh punishments because they are “out of compliance” with the program. For example, there is evidence that PTSD symptoms play an important role in the link between substance use and delinquent behaviors, as youth with histories of trauma often engage in problematic substance use in an effort to cope with strong emotions and reminders of traumatic experiences. However, traditional substance use treatment, which justice-involved youth are frequently mandated to attend, does not address the underlying traumatic stress symptoms that may be driving the problematic behaviors. Evidence-based, trauma-specific treatments are those treatments that are empirically proven to be effective at reducing stress related to trauma reminders and building skills to manage traumatic stress reactions (e.g., avoidance, aggressive outbursts, and withdrawal from important relationships) [see *Appendix* for recommended databases of evidence-based trauma-informed treatments]]. Strategies for managing distress are particularly important; without those strategies, youth may disengage from treatment. A negative treatment outcome should not be used against a juvenile defendant as evidence that they are unwilling or “too damaged” to change their behavior.

When seeking to identify mental health treatment providers, it is important for you to consider that many mental health providers have not been trained in trauma-specific treatment. Prosecutors or mental health professionals working within a prosecutor's office can ask prospective treatment providers detailed questions about the treatment(s) they use (see *Appendix* for potential questions) and reference an evidence-based treatment database (e.g., [SAMHSA NREPP](#) or [CEBC](#) databases) to validate the efficacy of the treatment being provided.

While the goal is for all juvenile court systems to be evidence-based, developmentally appropriate, and trauma-informed, the reality is that not all systems operate this way. Sometimes, the court system is not set up to be the appropriate place for youth to receive trauma services. When questions arise regarding the appropriateness of treatment, you should consider reaching out to a trauma-informed mental health professional for guidance.

CORE ELEMENTS OF TRAUMA-SPECIFIC/FOCUSED TREATMENT

It is important to consider whether a proposed service or treatment program is appropriate for a youth with a trauma history and trauma-related reactions by questioning whether the program:

- Educates youth about trauma and its effects on thoughts, feelings, and behavior.
- Increases a youth's sense of physical & psychological safety.
- Identifies reminders that trigger trauma reactions.
- Accounts for how seemingly “non-compliant” behavior can be related to trauma, rather than willfulness or lack of cooperation, and addresses the behavior accordingly.
- Develops emotional regulation skills (i.e., skills to help control and express strong feelings or to respond to difficult situations).
- Promotes trauma-informed parenting skills.
- Addresses grief and loss (when appropriate).
- Teaches youth to manage traumatic memories.
- Identifies and cultivates existing supports and strengths that promote recovery

Section Highlights: Secondary Traumatic Stress (STS) and Prosecutors

- Recognize individual risk and protective factors to developing STS, including a prior history of trauma exposure, job experience, social supports, relative youth, and use of effective strategies for coping with distress.
- Recognize job-specific and organizational factors that influence risk for STS, including the number of trauma survivors on the attorney's caseload, level of support from coworkers and supervisors and/or isolation, and education and training on STS.
- Incorporate trainings and supervision to help attorneys understand the impact of trauma, work with victims of trauma, recognize the symptoms of STS, and promote individual coping skills and mindfulness.
- Anticipate positive change that can result after STS, including decreased burnout, personal growth and job satisfaction (such as increased hope, optimism, commitment, and sense of efficacy), and improved community outcomes.

Vicarious Trauma or Secondary Traumatic Stress (STS) describes the negative physical and psychological health consequences resulting from repeated exposure to the stories and experiences of traumatized individuals. Attorneys handling juvenile cases are at a higher risk for developing secondary trauma reactions due to their frequent exposure to trauma survivors and their stories of trauma exposure. Furthermore, research suggests that the majority of attorneys will be threatened with violence at least once in their careers.⁸⁴ Although research examining STS specifically among prosecutors is still limited, studies have found elevated rates of PTSD and other trauma-related symptoms among attorneys with high levels of exposure to trauma in the workplace, including criminal attorneys.⁸⁵ In one study of attorneys working with traumatized clients, 34% of attorneys reported symptoms of secondary trauma, 11% met criteria for a diagnosis of PTSD, and 75% met criteria for functional impairment (i.e., disruption in personal life, family life).⁸⁶

Although not a specific diagnosis, STS reactions range from decreased empathy toward others, both personally and professionally, and changes in a sense of personal safety to the onset of PTSD symptoms (see Section 2). Vicarious trauma can also lead to a primary diagnosis of PTSD. STS can lead to impairment in attorneys' mental or physical health, job performance, and personal relationships.⁸⁷ Attorneys may engage in risky or unhealthy behaviors to cope with STS, including increased substance use, isolation or estrangement from loved ones, or being overly focused on protecting their own children from danger.

Risk Factors for Secondary or Vicarious Trauma. Both individual and job-related or organizational factors may increase an attorney's risk for developing secondary trauma. Individual factors include a prior history of trauma exposure (e.g., attorneys who were themselves abused as children), job experience, social supports, relative youth, and use of effective strategies for coping with distress.⁸⁸ Job and organizational factors that influence risk for STS include the number of trauma survivors on the attorney's caseload, level of support from coworkers and supervisors and/or isolation, and education and training on STS.⁸⁹ Vicarious trauma is more likely to occur where attorneys are dealing with the details of human violence and feel responsibility for the outcome of the case. It is heightened where the circumstances are particularly out of the ordinary or involve a high-profile case (such as in shocking cases of child abuse), and where the attorney identifies with the victim or personalizes the facts.

STRATEGIES FOR ATTORNEY SELF-CARE

- Exercise regularly and maintain a consistent sleep schedule.
- Eat healthy food and reward yourself with your favorite food occasionally.
- Build breaks into your schedule—even if just a few minutes.
- Maintain or increase your social connections.
- Accept your emotions and connect daily with others who recharge your emotional state.
- Practice mindful activities that can include meditation, yoga, or spiritual practices and ground yourself in your personal values and truths.
- Set and maintain boundaries with individuals involved with cases – specifically, clarify your role as attorney (versus social worker, case manager, or other service provider).
- Reduce your caseload or diversify your practice, if possible.
- Monitor your risk for STS by periodically completing a STS self-assessment tool such as the ProQOL or the Secondary Traumatic Stress Scale (see Appendix).
- Connect victims and/or witnesses with appropriate service providers – use a team approach for those who have experienced trauma and need a high level of support. Make a go-to list of local resources for referring to these resources.
- Access state bar legal assistance programs or confidential support services when available or seek counseling services as needed.
- Identify colleagues or friends who can be an emotional support and sounding board for your feelings and commiserate in a positive, cathartic way.

When the attorney's duty conflicts with his or her personal values or perceived societal values (e.g., perceived pursuit of justice), or family obligations, vicarious trauma is more likely to result. In a study on secondary trauma among attorneys, participants attributed their traumatic stress reactions to a lack of education on understanding clients with trauma histories and the absence of a regular forum for discussing the impacts of working with clients with trauma histories.⁹⁰

Preventing Secondary Trauma and Developing Vicarious Resiliency. There are several strategies that individual attorneys and agencies can take to help prevent secondary trauma.⁹¹ Training on working with trauma survivors has been shown to increase empathy and confidence in working with this population among mental health providers.⁹² Recommended areas of focus for training with attorneys include:

Understanding the impact of trauma on children and adults.

Skills for working with trauma survivors.

Recognizing the signs and risks for secondary trauma.

Stress reduction and management skills (e.g., mindfulness).⁹³

Formal supervision and peer support groups can also help prevent STS by providing attorneys with support and a forum for discussing the challenges of working with trauma survivors. Agencies should also clearly communicate the agency's mission in a manner that can support teamwork and coherency of vision. Agencies should promote a respectful workplace, free of discrimination and harassment, and which is open to discussion about the disparate impact of trauma on employees from marginalized groups and the modification of policies to address the impacts of vicarious trauma (such as employee workload, retention, and promotion policies). Agencies should also offer employee assistance programs or referrals to outside mental health providers for attorneys who develop symptoms of STS. By training their employees on recognizing and anticipating vicarious trauma, as well as the positive growth that can result (known as compassion satisfaction or vicarious resilience), agencies can decrease burnout while fostering employees' personal growth and job satisfaction (such as increased hope, optimism, commitment, and sense of efficacy), and thereby improve community outcomes.⁹⁴

SIGNS OF VICARIOUS OR SECONDARY TRAUMA

- Disruption in perceptions of safety, trust, and independence.
- Sleeping difficulties or nightmares.
- Exhaustion.
- Using alcohol or drugs to self-medicate.
- Anger or cynicism towards "the system" that begins to interfere with work or personal life.
- Difficulty controlling emotions.
- Hyper-sensitivity to danger.
- Increased fear and anxiety.
- Intrusive thoughts or images of client trauma stories.
- Social withdrawal.
- Minimizing the impact of trauma.
- Illness, increase in sick days at work.
- Diminished self-care and depletion of personal resources.
- Reduced sense of self-efficacy.
- Feelings of loss of sense of purpose or meaning.

POTENTIAL IMPACT OF SECONDARY TRAUMA ON JOB PERFORMANCE

- Reduced empathy towards victims, witnesses, and defendants.
- Cannot listen to, or avoidance of, victims and witnesses.
- Over-identifying with victims, or conversely, shutting down emotionally (both responses interfere with effective legal representation).
- Distancing oneself from exposure to key aspects of a victim's or defendant's history and ongoing trauma – thereby potentially missing events with high probative value in litigation.
- Increased chance for unconscious bias to impact decisions.
- Disregard for victims,' witnesses,' and defendants' challenges, difficulties, or limitations.
- Displaying hypervigilance through inappropriate outbursts in court, or with colleagues, victims, witnesses, or others.
- Showing subtle irritability or excessive anger resulting from STS may be masked as zealous advocacy in a trial setting, but may in fact be damaging to the attorney and interests of justice (such as unduly harsh dispositional recommendations).
- Feeling depleted emotionally or cognitively affected by secondary trauma, compromises the quality of legal representation for the attorney. Some traumatized professionals, believing they can no longer be of service to their clients, end up leaving their jobs or the serving field altogether. Several studies indicate the development of secondary traumatic stress often predicts that a helping professional will eventually leave the field for another type of work.



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- ⁸⁹ Levin, A. P. (2008). Secondary trauma and burnout in attorneys.: Effects of work with clients who are victims of domestic violence and abuse. *ABA Commission on Domestic Violence eNewsletter*, 9. Retrieved from http://www.americanbar.org/content/dam/aba/publishing/cdv_ewsletter/LevinWinter2008.authcheckdam.pdf
- ⁹⁰ Levin & Greisberg, 2003
- ⁹¹ Baetz, C. (2019). Resilience in the face of secondary trauma exposure: Working with child survivors of trauma. *CDAA Prosecutor's Brief*, 41(3), 238-251
- ⁹² Greenwald, Maguin, Smyth, Greenwald, Johnston, & Weiss, 2008
- ⁹³ Skogstad, M., Skorstad, M., Lie, A., Conradi, H. S., Heir, T., & Weisæth, L. (2013). Work-related post-traumatic stress disorder. *Occupational Medicine*, 63, 175-182. <http://doi.org/10.1093/occmed/kqt003>. See also <https://vtt.ovc.ojp.gov/> for additional resources.
- ⁹⁴ See Arnold, D., Calhoun, L., Tedeschi, R., & Cann, A. (2005). Vicarious posttraumatic growth in psychotherapy. *Journal of Humanistic Psychology*, 45, 239-263. doi:10.1177/0022167805274729; Counselling Psychology Quarterly, 26, 89-105. doi: 10.1080/09515070.2012.727553; Calhoun, L.G., & Tedeschi, R.G. (2006). The foundations of posttraumatic growth: An expanded framework. In L. G. Calhoun & R.G. Tedeschi (Eds.), *Handbook of Posttraumatic Growth* (1-24). Lawrence Erlbaum Associates, Inc. Mahwah, NJ. ; Cohen, K. & Collens, P. (2013). The impact of trauma work on trauma workers: A metasynthesis on vicarious trauma and vicarious posttraumatic growth. *Psychological Trauma: Theory, Research, Practice, and Policy*, 5, 570-580. doi:10.1037/a0030388; Fedele, K. M. (2019). *An investigation of factors impacting vicarious traumatization and vicarious posttraumatic growth in crisis workers: Vicarious exposure to trauma, feminist beliefs, and feminist self-labeling* (Order No. AAI10991842). Available from PsycINFO. (2179753151; 2018-65237-012). Retrieved from <https://proxy.bc.edu/login?url=https%3A%2F%2Fsearch.proquest.com%2Fdocview%2F2179753151%3Facc>



APPENDIX

This section provides resources that may be helpful to prosecutors engaging trauma-informed legal practices.

***Please note that some of the resources listed below are not specific to the juvenile justice system or the role of the prosecutor. Many were developed for the child welfare system and the very different role of child attorneys in that system. While they have been included as sources of information, all prosecutors should read these resources with the cautions expressed throughout this document and the prosecutor's individual ethical responsibilities.*

RESOURCES FOR ATTORNEYS

TRAUMA AND ITS EFFECTS ON YOUTH:

Forkey, Heather. (2015) *Medical Aspects of Trauma: A Guide for Lawyers*, *ABA Child Law Practice*, 34, (7). Available from https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol-34/july-2015/medical-effects-of-trauma-a-guide-for-lawyers/

Klain, E. J. (2014). Understanding trauma and its impact on child clients. *Child Law Practice*, 33. Available from http://www.americanbar.org/publications/child_law_practice/vol-33/september-2014/understanding-trauma-and-its-impact-on-child-clients.html

National Child Traumatic Stress Network. (2016). Racial injustice and trauma: African Americans in the US. Available from http://www.nctsn.org/sites/default/files/assets/pdfs/racialinjusticeandtrauma_101816_final.pdf

Racing ACES. (2016). <https://acestoohigh.com/2016/10/24/racing-aces-gathering-and-reflection-if-its-not-rationally-just-its-not-trauma-informed/>

Center for Child Trauma Assessment and Service Planning. (2016) *Remembering Trauma* [motion picture]. United States: Northwestern University.

Uduakobong Ikpe, M.S., Kendell L. Coker, Ph.D., *Encouraging the Use of Community Involvement and Restorative Practices as a Treatment for Trauma with Black Juvenile Offenders*, 15 *Pub. Int. L. Rep.* 220 (2010).

TRAUMA-INFORMED PROSECUTION & LEGAL ADVOCACY RESOURCES::

Fair and Just Prosecution (n.d.). *Juvenile Justice and Young Adult Issues: Promoting Trauma-Informed Practices*. <https://fairandjustprosecution.org/wp-content/uploads/2017/09/FJPBrief.TraumaPractices.9.25.pdf>

American Bar Association's Policy on Trauma-informed Advocacy for Children and Youth (2014) http://www.americanbar.org/content/dam/aba/administrative/child_law/ABA%20Policy%20on%20Trauma-Informed%20Advocacy.authcheckdam.pdf

American Bar Association Center on Children and the Law's website on *Polyvictimization and Trauma-informed Legal Advocacy* https://www.americanbar.org/groups/public_interest/child_law/project-areas/child-and-adolescent-health/resources/

Antoinette Kavanaugh & the National Juvenile Defender Center, *Tips on Youth Trauma: for Juvenile Defenders* (2017) <http://njdc.info/tips-on-youth-trauma-for-juvenile-defenders>

Laura Cohen & Sandra Simkins, *The Critical Role of Post-Disposition Representation in Addressing Needs of Incarcerated Youth*, 8 *J. Marshall L.J.* 311 (Spring 2015).

IMPACT OF TRAUMA ON THE ATTORNEY-CLIENT RELATIONSHIP:

Reitman, K. A. (2011). *Attorneys for children guide to interviewing clients: Integrating trauma informed care and solution focused strategies*. Utica, NY: Child Welfare Court Improvement Project, New York State Unified Court System. Retrieved from: <http://www.nycourts.gov/ip/cwcip/Publications/attorneyGuide.pdf>

INFORMATION SHARING:

Stewart, M. (2013). Cross-system collaboration. Los Angeles, CA & Durham, NC: National Center for Child Traumatic Stress. Retrieved from: http://www.nctsn.org/sites/default/files/assets/pdfs/jj_trauma_brief_crosssystem_stewart_final.pdf

The Juvenile Law Center and Robert F. Kennedy National Resource Center for Juvenile Justice have developed the Models for Change Information Sharing Toolkit. Retrieved from: www.infosharetoolkit.org/

SCREENING AND ASSESSMENT:

Pilnik, L., & Kendall, J. R. (2012). Identifying polyvictimization and trauma among court-involved children and youth: A checklist and resource guide for attorneys and other court-appointed advocates. Retrieved from: http://www.americanbar.org/content/dam/aba/administrative/child_law/IdentifyingPolyvictimization.pdf

National Center for Mental Health and Juvenile Justice [NCMHJJ] (2007, November) *Mental health screening within juvenile justice: The next frontier*. Retrieved from <http://www.modelsforchange.net/publications/198>

National Child Traumatic Stress Network. (2017, August 28). Standardized measures to assess complex trauma. Retrieved from: <http://www.nctsn.org/trauma-types/complex-trauma/standardized-measures-assess-complex-trauma>

National Center for PTSD. (2017, August 28). Traumatic Events Screening Inventory for Children (TESI-C). Retrieved from: <https://www.ptsd.va.gov/index.asp>

American Psychological Association Services (n.d.). Sample trauma screener: <https://www.apaservices.org/practice/reimbursement/health-registry/ptsd-screening-assessment.pdf>

TREATMENT:

Finding Effective Trauma-Informed Treatment for Children, Teens, & Families

<http://www.nctsn.org/resources/topics/treatments-that-work/promising-practices>

The National Child Traumatic Stress Network's website includes a comprehensive list of the most effective and widely used trauma-informed treatments for children, adolescents, and families. This site includes a description of the core components of trauma-informed treatments and a list of trauma-informed interventions for children, adolescents, and families, with fact sheets summarizing the key components of each treatment and the research evidence that shows its effectiveness.

Finding a Trauma-Informed Therapist or Expert in Your Area

<http://www.nctsn.org/about-us/network-members>

The National Child Traumatic Stress Network is comprised of more than 100 federally-funded and affiliated academic and treatment centers around the US that provide trauma-informed mental health services and training/consultation on child traumatic stress. To find a trauma expert in your area, search the NCTSN's list of network members by state.

<http://www.istss.org/find-a-clinician.aspx>

The International Society for Traumatic Stress Studies offers a searchable online database of mental health professionals that offer trauma-informed treatment across the globe.

<http://www.nctsn.org/resources/get-help-now>

The NCTSN's Get Help Now site offers information on help for children who have experienced abuse or neglect.

NCTSN Fact Sheet: *List of Questions to Ask Mental Health Professionals When Assessing Trauma-Informed Treatment*

1. Does the individual/agency that provides therapy conduct a comprehensive trauma assessment?
 - a. What specific standardized measures are given?
 - b. What did your assessment show?
 - c. What were some of the major strengths and/or areas of concern?
2. Is the clinician/agency familiar with evidenced-based treatment models?
3. Have clinicians had specific training in an evidenced-based model (when, where, by whom, how much)?
4. Does the individual/agency provide ongoing clinical supervision and consultation to its staff, including how model fidelity is monitored?
5. Which approaches does the clinician/agency use with children and families?
6. Is parent support, conjoint therapy, parent training, and/or psychoeducation offered?
7. Which techniques are used for assisting with the following: Building a strong therapeutic relationship; Affect expression and regulation skills; Anxiety management; Relaxation skills; Cognitive processing/reframing; Construction of a coherent trauma narrative; Strategies that allow exposure to traumatic memories and feelings in tolerable doses so that they can be mastered and integrated into the child's experience; Personal safety/empowerment activities; Resiliency and closure
8. How are cultural competency and special needs issues addressed?
9. Is the clinician or agency willing to participate in the multidisciplinary team (MDT) meetings and in the court process, as appropriate?

SECONDARY TRAUMATIC STRESS:

Rainville, Cristina. Understanding Secondary Trauma: A Guide for Lawyers Working with Child Victims, ABA Child Law Practice, Volume 34, Number 9 (September 2015). Available https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol-34/september-2015/understanding-secondary-trauma-a-guide-for-lawyers-working-with/

Institute for Redress & Recovery, Santa Clara Law. (n.d.) *Secondary trauma and the legal process: A primer & literature review*. Santa Clara, CA: Author. Available from <http://law.scu.edu/redress#5>

van Dernoot Lipsky, L., & Burk, C. (2009). *Trauma stewardship: An everyday guide to caring for self while caring for others*. San Francisco, CA: Berrett-Koehler Publishers.
<http://traumastewardship.com/inside-the-book/>

The *Professional Quality of Life Scale* is a 30-question assessment of secondary traumatic stress, burnout, and compassion satisfaction that is intended for use with a wide range of helping professionals. To download a free copy of the ProQOL, including instructions on how to complete and score the questionnaire, visit http://www.proqol.org/ProQol_Test.html. Mental health counseling or other supports can be helpful in addressing high scores on the secondary trauma or burnout scales of the ProQOL. Refer to Section 6 of this Appendix for additional information on locating a trauma-informed therapist in your area.

RESOURCES PERTAINING TO JUVENILE COURT JUDGES AND SYSTEMS

National Council of Juvenile & Family Court Judges [NCJFCJ]. (n.d.). Trauma-informed systems of care. Retrieved from: <http://www.ncjfcj.org/our-work/trauma-informed-system-care>

National Child Traumatic Stress Network and National Council of Juvenile & Family Court Judges. (2013). *Bench card for the trauma-informed judge*. Los Angeles, CA and Durham, NC: Authors. <http://www.nctsn.org/products/nctsn-bench-card-trauma-informed-judge>

Resources for Trauma-Informed Court Systems & Understanding Trauma from a Public Health Lens

National Council of Juvenile & Family Court Judges (2014). *Trauma court audit*. <http://www.ncjfcj.org/sites/default/files/Trauma%20Audit%20-%20Snapshot.pdf>

Aces too High (n.d.). <https://acestoohigh.com/2014/09/24/trauma-informed-judges-take-gentler-approach-administer-problem-solving-justice-to-stop-cycle-of-aces/>

ACEs in the Criminal Justice System, © Academic Pediatrics, by James Garbarino, PhD, Volume 17, Number 7S September–October 2017 available online at [https://www.academicpedsjnl.net/article/S1876-2859\(16\)30419-3/pdf](https://www.academicpedsjnl.net/article/S1876-2859(16)30419-3/pdf)

Appointment of New Surgeon General Puts Spotlight on Childhood Adversity, © California Health Report, by Claudia Boyd-Barrett, January 24, 2019 available online at <http://www.calhealthreport.org/2019/01/24/appointment-new-surgeon-general-puts-spotlight-early-childhood-adversity/>

Pair of ACEs Tree – GW Public Health, Building Community Resilience available online at https://publichealth.gwu.edu/sites/default/files/downloads/Redstone-Center/Resource%20Description_Pair%20of%20ACEs%20Tree.pdf

The Truth About ACEs Infographic, © Robert Wood Johnson Foundation, Adverse Childhood Experiences, May 12, 2013, available online at <https://www.rwjf.org/en/library/infographics/the-truth-about-aces.html>

Got your ACE, Resilience Scores?, © ACEs Connection.com, by Jane Stevens, January 1, 2017, available online at <https://www.acesconnection.com/blog/got-your-ace-resilience-scores>

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