
Trauma-Informed Lawyering: Building a Practice that Works for Your Client and Your Case

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Developing a trauma-informed practice approach is essential for attorneys working with clients or victim-witnesses who have experienced trauma. A strong trauma-informed practice will help you build trust with your client and create an effective attorney-client relationship. This will in turn help you get the facts you need to understand the strengths and weaknesses of your client's case and execute a successful case strategy. In other words, a trauma-informed approach is critical to ensuring competent and effective representation of trauma survivors. Importantly, this approach also acknowledges that representation must be undertaken with an eye toward minimizing the re-traumatization of our clients, as much as possible, and helping to elevate their own strength and resiliency.

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I. An Expansive Understanding of Trauma

Trauma refers to intense physical or psychological stress reactions resulting from an experience or set of experiences. When thinking about a trauma survivor, many people imagine survivors of rape, intimate partner violence, torture, trafficking, and other forms of persecution or violence. Others may imagine soldiers who have experienced war, or people who have otherwise witnessed horrific acts. You will certainly see trauma manifest as a result of all these things. But it is important to remember that many clients, especially those served by public interest or pro bono attorneys, have also experienced systemic trauma. That is, trauma resulting from their lived experiences of institutional sexism, racism, heterosexism, intergenerational poverty, and other systems of oppression. Acknowledging these different forms of trauma and understanding that they often overlap is the first step in developing a trauma-informed practice approach.

II. What Trauma-Informed Lawyering Is and Is Not

A trauma-informed lawyering practice places each client's unique trauma experience at the forefront of your representation. Because everyone reacts to trauma differently, a trauma-informed practice requires flexibility and a willingness to adjust your practice approach as you learn more about your client and the way their trauma primarily manifests in your interactions. It is not a set of rules or guidelines that you can apply uniformly but rather a thoughtful, client-centered approach.

Although we cannot offer you a formulaic structure, there are some foundational concepts we will cover in this article that can help you develop your own trauma-informed practice, including (i) a basic understanding of how traumatic memories work; (ii) the different ways that trauma manifests; (iii) guiding principles for building trust with your client; and (iv) some tips on putting all of this into practice. And remember that you do not have to do this alone—as we'll see later in the article, collaboration with your client is important, and that collaboration includes working together to understand what works best for them.

III. A Lawyer's Introduction to Neurobiology

Let me start by saying that you do not have to become an expert in neurobiology to have an effective trauma-informed practice, but a little background can help. When we experience or witness a traumatic event, the mammalian part of our brains—the limbic system—takes over. This is commonly known as the “fight, flight, or freeze” part of the brain. The limbic system is distinct from the frontal cortex, which is responsible for functions like processing and sorting thoughts, language, and learning. The limbic system, on the other hand, is responsible for things like emotions, sensations, and non-verbal responses. When we feel fear or sense danger, we revert to our basic survival instincts and our limbic system takes over. And that is where the memories of that traumatic event are stored—not in the “thinking” part of the brain (i.e., the frontal lobe) but in the sensory part of the brain. Importantly, this means that when you ask your client to recall the traumatic event, they will likely recall the images, sensations, and emotions associated with that event.

Why is this important?

First, it helps you to understand why it might not be possible to get all the facts from your client that you would like. Because of where traumatic memories are stored and the fact that they are never fully processed in the frontal lobe, you will often work with trauma survivors who have difficulty verbalizing the trauma incident, providing details, and/or establishing a chronology or pinpointing the date of the event. It's important to acknowledge this and understand that your client is not lying, withholding, or being uncooperative; instead, their inability to provide you with details is likely just a product of the way their memories are stored. Armed with this knowledge, you can focus on creative lawyering and interviewing to build to your case instead of asking your client the same questions over and over again.

Second, it helps you understand and navigate some of the more common manifestations of trauma that might arise during your work with someone affected by trauma. “Flooding,” for example, is a common manifestation of trauma that you may experience in a client interview and that you will want to be able to identify. Flooding refers to the intense intrusion of images or thoughts related to a traumatic event, often coming very rapidly and uncontrollably. And because traumatic memories can become conflated—meaning that one memory brings up all related memories—your client may experience a “flood” of images, sensations, and thoughts about several different events. When this happens in an interview, you will notice that your client might start talking faster, their story may be confusing or hard to follow, and/or they may have physical reactions like sweating or breathing rapidly. It's important to recognize these reactions, and others like it, so that you can stop the interview, ground your client (see below for more on “grounding”), and help them come safely back to the present. Flooding is just one example of a common manifestation of trauma. There are many other physical, relational, and psychological manifestations of trauma you might encounter (e.g., dissociation, minimization, emotional dysregulation, anxiety and depression, low self-esteem, difficulty trusting others, etc.). Being aware of, understanding, and reacting compassionately to whatever arises when working with your client is an important part of building a trauma-informed practice.

And always remember that everyone reacts differently to trauma. There is no model for survivorship, and there should never be any expectation or judgment about how a survivor processes or manifests their trauma.

IV. Building Trust Is a Critical Part of the Process

Establishing trust is a slow and compassionate process. There are several guiding principles that help lay a foundation of trust with your client. Defining roles and responsibilities will help address your client's initial apprehension about who you are and what they can expect from you. Open communication and dialogue will support trust throughout the attorney client relationship.

Minimize the Power Differential. As an attorney, you bring expertise, education, and privilege. There is an imbalance in power when working with clients who have experienced trauma and who may have been regularly abused or exploited. You are the expert and they need you to help them. For pro bono and public interest clients, they are often in a position where they cannot give you anything material in exchange for that expertise, thus relying on your free expert assistance and adding another layer of imbalance. They may feel judged, or fear that you are going to abandon them or their case if they say or do something “wrong” or upset you with their traumatic story. Reducing the power differential builds trust and helps to empower your client, allowing the client to be a partner in the development of their case.

One good way to minimize the power differential is to ensure collaboration and communication. You want to make decisions with your client, not for them. Ask your client what they want and ensure them that you will work towards that goal together. You can also keep reminding them that you work for them.

Tell Your Client What to Expect. Open communication helps the client feel like you really are consulting with them and not making decisions for them. There are several things you can do ahead of your first meeting that will help build

the client's confidence in you. Make sure your client feels prepared and knows what to expect. Make this a collaborative process by asking your client what their goals are and how you will try to achieve those goals together. Visuals, such as checklists, flowcharts, timelines and charts, will help guide the conversation.

Explain attorney/client privilege and stress that you will not reveal anything unless your client directs you to. This will help your client feel emotionally safe. If there is an interpreter, note-taker or paralegal in the room, introduce everyone and their role and explain that confidentiality and privilege extends to them as well.

V. Engage in Mindful Interviewing

Building and maintaining trust with your client also depends on your choice of words and how you phrase questions. Acknowledge that you will be discussing some difficult topics and ask your client what you can do to make them feel comfortable. Encourage them to tell you when they feel overwhelmed or need a break. If possible, consider not covering traumatic territory in the first meeting; there are many issues you can discuss instead, including capturing biographical details, before getting to those sensitive topics.

Before broaching a sensitive topic and/or digging deeper into a traumatic experience, give your client advance notice about where you intend to lead the conversation and approach potential trauma triggers gently. Assure them that you don't want to be invasive, but you need to gather this information for the case and explain why it is important.

Monitor your client's reactions and take regular breaks, especially when they appear overwhelmed. Validating your client's strengths, rather than their problems, will support your client through this process. Use a strengths-based perspective, reminding clients that they survived and found help for themselves, which took strength and courage.

Traumatic experiences can disrupt the client's recollection and timeline of events. Using open-ended questions will allow the client to share their story in a way that feels comfortable instead of defensive. Be clear about how much detail you need for your case and if an exact chronology is required or not. This helps you get the information, while also making sure that you're not forcing the client to tell traumatizing events that aren't necessary for purposes of your legal case.

Grounding is a very important concept when working with trauma survivors. This technique helps manage the symptoms of trauma by refocusing attention away from uncomfortable thoughts and memories to the present moment. If your client is flooding memories, having flashbacks or experiencing other physical manifestations of trauma, pause and reorient them to the present. You can do this with a simple sensory experience, like suggesting they drink water or tea, or taking a walk around the office. Sometimes, clients may want to use a tool, such as a smooth stone or other object to hold during your meetings.

Be as thoughtful about closing your meeting as you were setting up your appointment. Avoid ending a meeting immediately after a client shares a traumatic experience. Instead, transition the client back to the present by asking neutral questions; for example, questions about their children or plans for the rest of the day. Thank the client for sharing their experiences with you and remind them that everything they shared will remain confidential.

Expectations and communication are critical to establishing and maintaining trust. Communicating a clear understanding of next steps will help to reduce anxiety; and having a conversation about what is mutually convenient will help your client feel they are a partner in the relationship and reduces the power differential that may lead them to agree with you about the timing of events, even when it is not convenient for them. Maintaining contact with your client regularly will also sustain the trust you have created.

VI. Conclusion

A trauma-informed practice is vital to effectively represent trauma survivors, minimizes the possibility of re-traumatizing our clients, and enhances their strength and resilience. While clients manifest their trauma differently, we hope these guidelines help you to build a foundation of trust as you navigate your attorney-client relationship.

For more tips on how to engage in trauma-informed lawyering please review this best practices tip sheet: [Working with Survivors of Abuse: A Trauma-Informed Approach](#).

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Also available from PLI Programs:

[Addressing Domestic Violence 2021: Remote Family and Immigration Law Practice During Pandemic or Disaster](#)

[Working with Domestic Violence Immigrant Survivors: The Intersection of Basic Family Law, Immigration, Benefits, and Housing Issues in California 2021](#)

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