

Trauma-Informed Courtrooms and Generational Trauma:

Trauma-Informed Legal Processes in the Courtroom:
Practical tips on becoming a trauma-informed courtroom &
the legal professionals who work with them



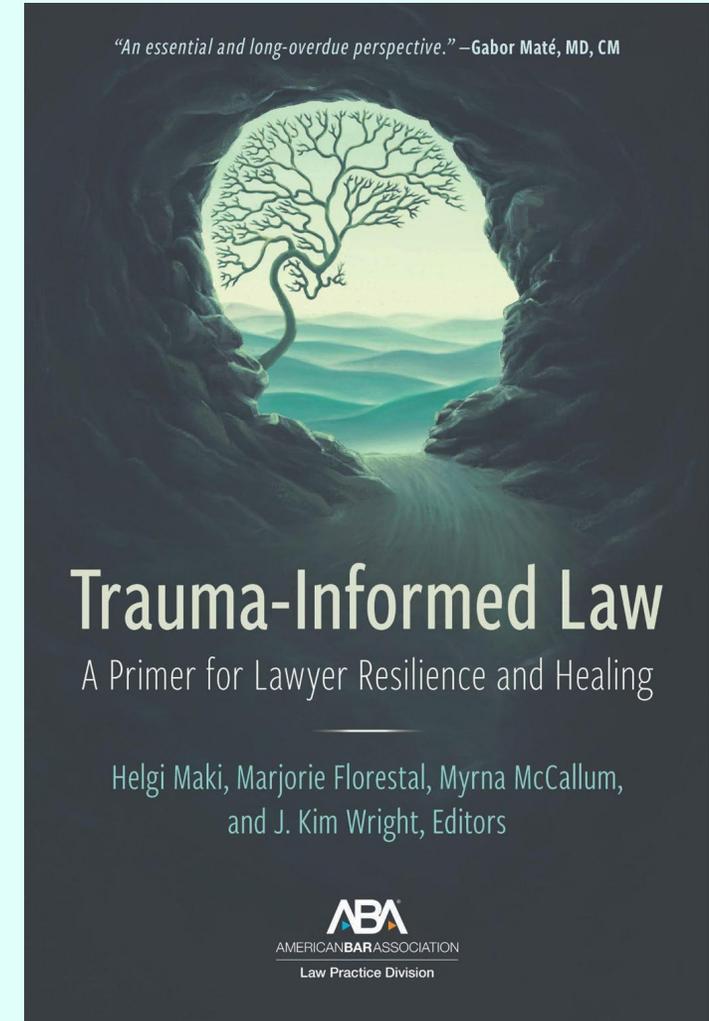
Helgi Maki, Consultant & Coach
Generativity Co., Coaching & Consulting

Based on...

Trauma-Informed Law: A Primer for Lawyer Resilience and Healing,
Helgi Maki, Marjorie Florestal, Myrna McCallum and
J. Kim Wright, Editors

American Bar Association, Law Practice Division

<https://www.americanbar.org/products/inv/book/430137593/>



Overview: Today's Learning Objective and Poll Questions

- Increase attorney and judge capacity to create a trauma-informed courtroom environment
- Group question(s)
- Review scenario and any facts to focus on (or new facts)

Outline

- 1. Sources of stress in the courtroom and support strategies – working with clients and the “biopsychosocial” model of trauma
- 2. Practices for understanding trauma in the courtroom– how trauma shows up in the courtroom, in case background narrative and in resources (bench cards and tools)
- 3. Scenario: linking the scenario to strategies for legal processes, including for judges or adjudicators and legal professionals

**1. Sources of stress in the
courtroom & support strategies—
working with clients and the
“biopsychosocial” model of trauma**

Roots of a Trauma-Informed Court Initiative



Judge Tepper - Trauma



Florida Courts
1.35K subscribers

Subscribe

- Like
- Share
- Download
- Clip
- Save
- ...

Source: <https://www.flcourts.gov/Resources-Services/Office-of-Family-Courts/Family-Court-in-Florida/Family-Court-Tool-Kits/Family-Court-Tool-Kit-Trauma-and-Child-Development> and <https://www.youtube.com/watch?v=o07y8YB9rjg>

Roots of a Trauma-Informed Court Initiative

“...regardless of gender, race or ethnicity, most [justice involved individuals in my court] started using drugs and alcohol by the age of 10 or 11.... [We] often end up trying to treat someone’s solution to [their] trauma. I have seen this in the children and the parents who appeared in my court in my 30 years as a circuit judge. ..I failed to see through a trauma lens. I was too quick to see their deficiencies without recognizing they were the culmination of what was done to them. Now seeing these parents in court I realize they were children once too. We must recognize that trauma, child development and outcomes are inextricably linked.” – Judge Lynn Tepper, Florida Courts

“Institutional Courage” is...

“commitment [by an institution, or an individual or group on behalf of an institution] to seek the truth and engage in moral action, despite unpleasantness, risk and short-term cost. It is a pledge to protect and care for those who depend on the institution.” – Jennifer Freyd

Trauma-Informed Legal Practice

-Lawyers can consider the impact of trauma on these client needs & issues when advising a client affected by trauma.

-Lawyers can use a trauma-informed lens regarding what they say & do (and how).

-Keep the high prevalence of trauma & neuroscience of trauma throughout our work.



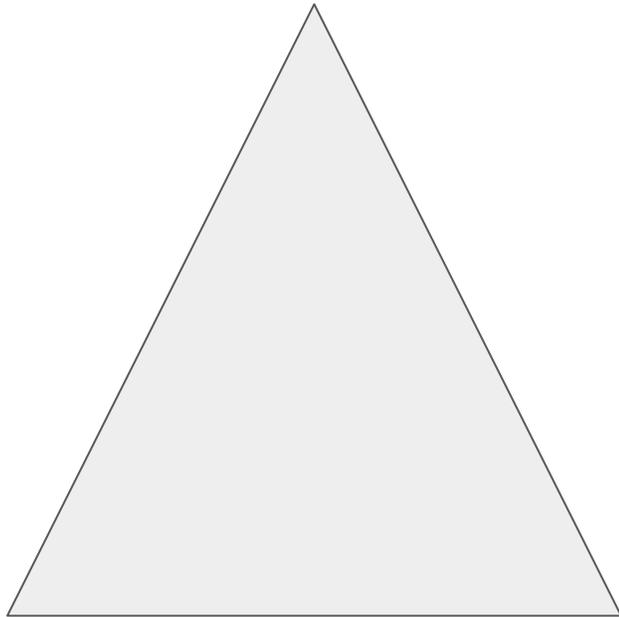
How does trauma (and trauma of grief) show up in organizations?

- Where are the signs of trauma in practice? (Reflect on what you can observe in each context & resources you use)
- People with 4 or more ACEs (adverse childhood experiences) are 32.6 times more likely to experience learning & behavior challenges.

Client Context	Colleagues & Self Context	System Context
Relationship	Behavior	Clarity
Communication	Health habits	Transparency
Learning	Emotional regulation and mood or mental state	Predictability (or not)
Memory / narrative	Awareness of self & others	Effective communication
Behavior & Responses	Communication patterns	Relational
And many more factors...		

A “Parallel Process”: The translation process of seeing a trauma response within behavior

- The **survival response** to trauma is a biopsychosocial experience. It always happens in **context**.



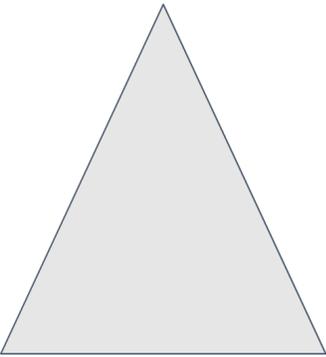
Biology + psychology + social factors

Biology	Psychology	Social Factors
“Rest & Digest” (or not)	Emotions & resulting behavior	Relationship formation & behavior
Parasympathetic or sympathetic (and cortisol/adrenaline)	Learning	Safety, trust & belonging
Chronic pain / ability to move	Memory	Communication
Hypervigilant/hypovigilant	Thought patterns & mindset	Attunement
Neurobiology & behavior	Worldview	Inundate / withdraw
And many more factors...		

2. Practices for understanding trauma in the courtroom – how trauma shows up in the courtroom, in case background narrative & in resources

Review: What are “modifiable factors”?

Biology / Behavior	Psychology	Social Factors
Timing (breaks, long or short timing plan, pacing, etc.)	Mindset or perspective (i.e. thought framing, curiosity or judgement)	Communication style (relational or transactional)
Resource allocation (effort or energy)	Emotional regulation (or awareness / intelligence)	Trust levels
Routines (sleep, meals, exercise)	Learning or contemplating (versus judgement)	Relationship type or formation (i.e. conflict-oriented, conflict-avoidant)
Movement or mobilization	Decision-making or problem solving	Interaction patterns (i.e. attunement, empathy, compassion etc.)
Nervous system state (which affects neurobiology through afferent neurons)	Self-reflection or meaning-making	Relational patterns (i.e. Inundate / withdraw, engage / disengage)
<p>Ex: For trauma-impacted (or graphic) evidence, we might modify how to: 1) obtain it; 2) plan handling it; 3) strategize viewing it; 4) disclose it; 5) structure discussions about it; 6) debrief about it for future planning.</p> <p>For instance: structured evidence vs. unstructured. Use content labeling in advance, structured viewing or disclosure (in terms of team or time), prepare an agreed summary instead of wide viewing/discussion.</p>		



Courtroom Practices

1. **Communication strategies:** does it build **trust or support healthy communication?**
2. **Client-focused strategies:** does it **meet the client in context?**
3. **Legal process strategies:** is it **designed to increase helpful factors and decrease hindering factors amid trauma**
(including building strengths where possible)?

Communication strategies

a. Psychological safety

Addresses fear of taking “interpersonal risk” and includes:

1. **Non-judgment** or discernment (vs. judgement)
2. **Acceptance** of perceived risks (vs. avoiding risk)
3. **Mutual respect** (vs. minimizing or deference)
4. **Curiosity** (vs. “closed off”)
5. **Empathy** (vs. indifference) **Note: May include “tactical empathy” for someone who is challenging to work with, which can happen in any type of litigation.*

Ex: “Can you help me understand what’s happening? It seems that fewer of our questions have responses than what’s usual for this type of case. What are you experiencing?”

“Thanks for letting me know, it’s important for me to understand what’s missing.”

Communication strategies

b. Communication style

First four below can escalate conflict and one (being “level”) can increase trust, improve communication & help resolve conflict.

1. **Blaming** – ex: incivility or aggression, a type of “**fight**” response
2. **Super rational (computer)** – ex: tough or hyper-competitive, a type of “**flight**” response
3. **Distracted** – ex: tangents, needless arguments, not getting to the point, a type of “**flight**” response
4. **Placating or appeasing** – ex: agree without thinking, no opinion, the “yes person”, a type of “**fawn**” response
5. **Leveling** – ex: calmly and fairly engaged. Consistent message on every level, in words plus tone including biological (physical), psychological and social factors. A type of “**resourced**” or “**engaged**” response.

““What youth say...

“In foster care, you don’t keep friends, like you go from school to school, you go from house to house. You don’t keep nobody.”

- (Debra, participant)

”

Source: From 212 interviews of youth in foster care between 2010 and 2015. Mitchell, Monique. ““No One Acknowledged My Loss and Hurt”: Non-death Loss, Grief, and Trauma in Foster Care.” *Child and Adolescent Social Work Journal* 35.1 (2017): 1-9.

FOUR KEY WAYS COLLAPSE/SUBMIT CAN PRESENT IN A CLIENT

Adapted from Ruth Lanius, MD, PhD, Pat Ogden, PhD and Deb Dana, LCSW

The collapse/submit trauma response is often considered “the defense response of last resort.” It’s how the nervous system often handles chronic, inescapable trauma.

In a moment of trauma, this defense response can lessen the client’s experience of pain. But after the trauma has passed, these adaptations interfere with a healthy life.

Here are four key ways collapse/submit might show up in your client:

Compliance / Obedience



Your client might be simply going through the motions of life on autopilot. They may feel detached from bodily experiences, and their feelings no longer guide their actions. For example, a client who experiences domestic violence may no longer be aware of fear, which keeps the person in the situation.

Treatment-Resistant Depression



Experiencing ongoing, inescapable traumatic stress can lead to treatment-resistant depression. The defining feature of this kind of depression is **learned helplessness**. When your client presents with this symptom, it's important to consider the client's history (for example, did they experience chronic, inescapable stress?).

Interpersonal Conflict



A patient in collapse/shutdown might have difficulty engaging with others and/or setting boundaries.

Social Avoidance / Desire to Isolate



Collapse/submit can make it difficult for a patient to engage in basic daily activities, like making meals or personal hygiene. They may withdraw socially.

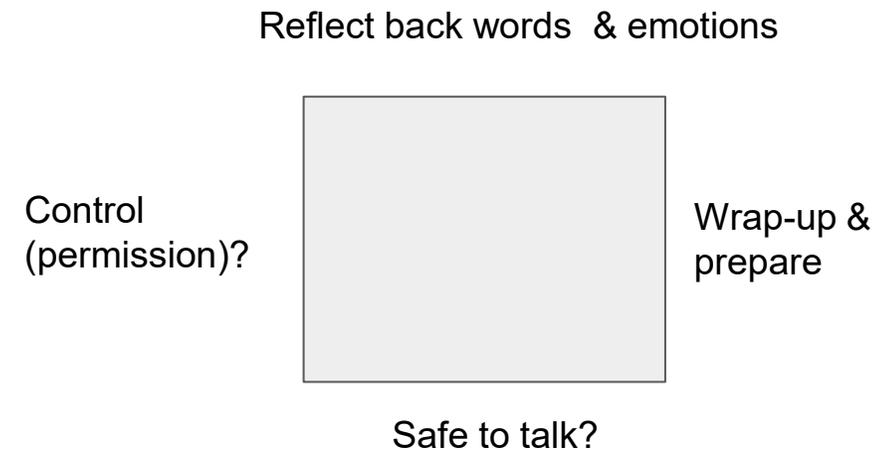
Being able to recognize the many ways that collapse/submit can manifest in your client is crucial for providing effective treatment.

2. Client-Focussed Strategies

- Inquire, reflect and adapt (a “biopsychosocial” strategy with social, psychological & behavioral parts) to increase helpful factors & decrease hindering factors.
- Meet the client where they’re at, including social context, to observe and inquire about “what happened” and what they need.
- Focus on current strengths, including what helps with coping & resilience
- Resourcing for positive experiences amid stress (public services & community services including school and family).
- Create structure instead of an unstructured approach
- Based on the NCTSN Bench Card for the Trauma-Informed Judge at https://www.nctsn.org/sites/default/files/resources/special-resource/nctsn_bench_cards_for_the_trauma_informed_judge.pdf. See also: <https://www.flcourts.gov/content/download/215867/file/Developmentalredflags.pdf>

Client-Focused Communication: Using a Communication Frame

- trust versus “survival learning”: who has client had a chance to speak with where there’s a focus on learning & decision-making rather than survival or avoiding risks?
- communication strategy: use a “communication frame” or structure
 - 1. safety
 - 2. control
 - 3. reflection
 - 4. wrap-up and prepare for next steps



Reflect - Your TI Practice Lens for Communication About Loss & Grief

	Your Communication Frame	Your version of a Trauma-Informed Questions?
1. Safety	I'll explain what we'll do together...	What are you client experiencing? (i.e. what is supportive or challenging? On "better days"? And on hard days?)
2. Control (or consent and permission)	Is it ok / how would you like...?	What can support talking about this? What does the client need to feel safe, to trust or to disclose? (i.e. who is "safe" or trustworthy on better days and hard times? Who do you/ can you tell?)
3. Reflection	I observed / I heard... I noticed...	What types of support might the client need to learn under stress, to prepare or to work together? (i.e. what helps with learning, stress or working?)
4. Wrap-up and prepare for next steps	We're going to finish up soon, is there anything else you want to share?	What is the broader context of the client's response including memory & narrative? (i.e. what else would be helpful for me to know about the better times and harder times like anniversaries or holidays?)
5. Self-reflection	I observed / I heard... I noticed...	What have I experienced? What supports my own sense of safety, control and preparing for next steps?



Even in the most challenging times...we can still validate

- I can understand that you feel that way / I can understand that you experience this that way..

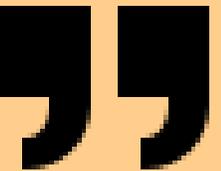
-Your experiences and feelings matter.

-I wanted to ask about your experiences and feelings because it's important, even if it's not clear what is best to say.

-It's important to acknowledge loss, even if it's not easy to say anything about it.

-We can talk about it again later too [if now isn't a good time.]

-for any of these, what's meaningful is acknowledging the importance of a person and their experience rather than finding the perfect words.



3. Legal Process Strategies

- Education which may include specialized expertise (i.e. guidelines or documents with exhibits regarding trauma or its impact)
- Planning, including plans for exposure to evidence (i.e. witnesses submit by affidavit or planned process for questions)
- Transparency (i.e. including addressing participants in education/ planning)
- Trial management steps
- Ongoing awareness (i.e. trauma response as normal, acknowledging emotions)
- Structure for dealing with legal process (i.e. discussing and collaborating on process, instead of an unstructured approach)
- Other factors? The above are from *S. v. Ukraine International Airlines JSC*, 2024 ONSC 3303 (CanLII), <https://canlii.ca/t/k570j>.

Example: Factors Florida Court Initiative

- Ongoing **education & awareness** about developmental trauma (i.e. trauma response & emotions as normal)
- **Planning** resources (i.e. who does what, spaces, processes such as “one family one judge” or “baby court” and other resources including debriefing)
- Inquiring about & engaging **supports** (i.e. youth supports)
- **Communication with and education for family members** about trauma and its impact
- Structure for dealing with trauma and child development (i.e. agreed process through dialogue instead of unstructured approach)
- The above is from Florida Family Courts at <https://www.flcourts.gov/Resources-Services/Office-of-Family-Courts/Family-Court-in-Florida/Trauma-and-Child-Development>

“Big 10” TI Florida Court Implications

1. Understand trauma
2. Presume trauma
3. Coordinate services / cases
4. Include trauma & child development information
5. Approach case materials with a trauma lens
6. Collaborate by using screening in context
7. Hold people accountable for connecting to trauma resources
8. Convene parties
9. Ongoing education & data
10. Care for self, professionally and personally

3. Scenario – linking the scenario to strategies for communication, including being a translator & educator for children and families

Scenario – How could a trauma-informed approach apply to it?

- **1. Which facts stand out to you as involving trauma in a court context?** Which aspects of the scenario provide signals regarding trauma-informed practices in your courts?
- **2. How** would you begin to use each of the following: **a) communication strategies, b) client-focussed strategies; and c) legal process strategies** in the scenario?
- **3. Do other “modifiable factors” stand out to you as being potentially useful in connection with this scenario while working with clients?** For example: legal process factors, or the “big 10” court implications? Consider what hurts and what helps in context.

“What Hurts & What Helps” from TI Florida Court (Summary)

1. **Communication:** a) respectful communications; b) active listening; c) think and ask “what has happened to you”; d) remain calm even amid aggression or hostility; e) transparency instead of unknown or unexpected processes.
2. **Environment:** a) calm and quiet spaces; b) keep noise and congestion to a minimum; c) clear directions and signs; d) safety resources; e) reduce wait time; f) friendly meeting configuration with bench or table; g) reduce intimidating behavior; h) mindfully discuss traumatic events and include expertise or debriefing.
3. **Self-awareness:** a) observe your own “baggage” or biases; b) understand and appreciate the social context of court-involved individuals; c) tailor case plans to the youth and family involved; d) encourage positive connections to community and supportive people; d) if you’re working with a person whose context differs from yours, get training to understand their needs and how systems can affect them.

Questions & Vision for the future

- . questions?

- . future focus: from awareness, to action to access to trauma-informed legal practices.

Can we move from compassion fatigue to “compassion satisfaction”?

How to connect & get a free download...



Quick Presentation Survey & for a free Resilience Reminder tip sheet / poster

<https://helgi154719.typeform.com/to/HuyqJ55K> and fill out the 2 minute survey

WEBSITES

www.helgimaki.com

www.traumainformedlaw.org

