Trauma-Informed Lawyering: Effects of Secondary Trauma on Attorneys and Advocates

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Housekeeping

• All on mute. Use Questions function for substantive questions and for technical concerns.

• Problems getting on the webinar? Send an e-mail to NCLER@acl.hhs.gov.

• Written materials and a recording will be available at NCLER.acl.gov. See also the chat box for this web address.
About NCLER

The National Center on Law and Elder Rights (NCLER) provides the legal services and aging and disability communities with the tools and resources they need to serve older adults with the greatest economic and social needs. A centralized, one-stop shop for legal assistance, NCLER provides Legal Training, Case Consultations, and Technical Assistance on Legal Systems Development. Justice in Aging administers the NCLER through a contract with the Administration for Community Living’s Administration on Aging.
About Justice in Aging

Justice in Aging is a national organization that uses the power of law to fight senior poverty by securing access to affordable health care, economic security, and the courts for older adults with limited resources.

Since 1972 we’ve focused our efforts primarily on populations that have traditionally lacked legal protection such as women, people of color, LGBT individuals, and people with limited English proficiency.
Key Lessons

• Trauma can impact everyone in the workplace
• There are several strategies individual staff members can use to combat secondary trauma
• Supervisors have the power to create positive, trauma-informed workplaces
Disclaimer

• This presentation will discuss trauma and its effects. These topics may be difficult for some to process. Feel free to exit out of the presentation at any time you feel uncomfortable.

• A recording of the presentation will be available on the NCLER website, as well as emailed to all webinar registrants.
What is Trauma

• Trauma is an event that “renders an individual’s internal and external resources inadequate, making effective coping impossible....A traumatic experience occurs when an individual subjectively experiences a threat to life, bodily integrity or sanity.”

Prevalence of Trauma

• Trauma is very common, with a 1997 NIH study finding about 1/3rd of the population will experience severe trauma at some point.

• A majority of Americans experience violent crime in their lives

• 12 million women have been victims of rape

• 3 million children a year “are reported as victims of child abuse and neglect.”

*From The Body Keeps the Score, Bessel Van Der Kolk, M.D.*
How Does Trauma Intersect with Old Age?

• Adverse childhood experiences (ACE’s) increase frailty in old age
  • ACE’s are traumatic events, like the death of a parent, drug/alcohol abuse in the family, physical abuse etc.

• The Kaiser Study found that children with more ACE’s had poorer health and social outcomes in adulthood
  • ACE’s also associated with increased risk of premature death
  • We should note the ACE study consisted of majority white middle class study participants
Step 1: Identify the Trauma

• Is case related to a possibly traumatic incident?
• Client might explicitly refer to trauma
• Read body language
• Is client closed off, agitated, anxious?
• Frustration? Anger?
• Unable to answer questions?

From 22 Clinical L. Rev. 359, 383.
Step 2: Adjust Relationship

• Adjust the lawyer-client relationship in relation to the trauma

• Adapt lawyering strategies to make client more comfortable

• Acknowledge the trauma—notice and validate feelings

From 22 Clinical L. Rev. 359, 383.
Strategies for Trauma-Informed Work

• Reliability
• Patience/Empathy
• Honoring Your Clients Lived Experiences
• Client Control
• Predictability/Minimizing Re-Traumatization
• Transparency
Secondary Trauma
What is Secondary Trauma?

• “A trauma exposure response has occurred when external trauma becomes internal reality” (Trauma Stewardship)
  • You may have heard of “burnout,” “vicarious trauma,” and “compassion fatigue”

• These are all different names for the same symptoms that can result not only from listening to others describing their trauma, but also from “merely working in an office where others are suffering from [vicarious trauma]” (ABA)
  • This means everyone in your office is at risk, and everyone is a part of the solution
Trauma Exposure Responses

• As lawyers and advocates, we are not immune to the suffering of others, and we can have reactions from being exposed to the trauma of our clients.

• A “trauma exposure response” can manifest in several ways. These are some warning signs:
  • Hopelessness
  • Hypervigilance
  • Diminished creativity
  • Inability to listen
  • Feelings that you can never do enough
  • Chronic exhaustion
  • Fear and guilt
  • Inability to empathize
  • Feeling helpless and hopeless

From Trauma Stewardship by Laura van Dernoot Lipsky and Connie Burk
Chart: Trauma Exposure Response

- Vicarious Trauma
- Secondary Trauma
- Compassion Fatigue/Burnout
Poll 1

• Have you experienced any of the trauma exposure response warning signs?
  • Yes
  • No
  • I’m not sure
Service Rationing

• Service rationing is the process of reconciling how you would work if you were able to function at your best ability vs. the reality of how you can work considering all of the obstacles in your way
  • Service Rationing is a reaction to demanding jobs with inadequate support

• Service rationing manifests as staff prioritizing work on these easiest cases or with most compliant clients first
  • The path of least resistance is the most appealing for a staff member experiencing trauma exposure response

• How do you think implicit racial bias would impact an attorney that is service rationing?

From Trauma Stewardship by Laura van Dernoot Lipsky and Connie Burk
More on Service Rationing

• Service rationing is often not intentional. It is used as a way to “preserve a sense of satisfaction in your work” and often keeps individuals at their jobs
  • As you can imagine, service rationing does not lead to ethical legal work

• Therefore, we have an ethical obligation to create positive, supportive work environments that eliminate service rationing
  • This means, our workplaces need to take into account the effects of trauma on staff and provide resources and support to mitigate these effects

• **Who really has the ability to make this change in any organization?**

*From Trauma Stewardship by Laura van Dernoot Lipsky and Connie Burk*
“Retrieving and recycling the plastic bottles or other debris we find floating towards us is a needed step in a cleanup....[but] [w]e need to identify and address all the sources of that pollution.”

From Trauma Stewardship by Laura van Dernoot Lipsky and Connie Burk
Combatting Secondary Trauma
Resilience

• Developing resiliency in the face of stress and trauma allows you to continue to do this type of work

• People who are “stress-resistant” have developed the tools to “integrate the experience [of trauma] into their lives and adapt”

From Trauma Stewardship by Laura van Dernoot Lipsky and Connie Burk
Stress-Resistant Persons

• A Sense of Personal Control
  • A feeling that you have the capacity to influence the course of your life

• Pursuit of Personally Meaningful Tasks
  • Being present and engaged in your life

• Healthy Lifestyle Choices
  • Exercise, healthy foods, time for relaxation and reflection

• Social Support
  • Your relationships with others help you handle difficult times

From Trauma Stewardship by Laura van Dernoot Lipsky and Connie Burk
Putting This Into Action

• Creating a self-regimen that works for you
• Creating boundaries between work and home life
• Creating time for your own interests and hobbies
• Taking time to care for yourself
• Taking time to appreciate friends and family
The Role of Organizations in Combatting Secondary Trauma
Role of Supervisors

• Supervisors have significant influence over an employee’s ability to enact the previous strategies
  • Therefore, they have a large role in creating a workplace culture that encourages self-care

• Consider the following:
  • Work Culture
  • Workloads
  • Leave Policies
  • Providing Space for Reflection
  • Employee Assistance Programs
Work Culture

• What is the culture in your workplace?
  • Do employees take vacation?
  • Do employees take sick time?
  • Do employees work overtime consistently?
  • Are employees leaving time off of their timesheets?
  • Can no one leave until the supervisor leaves?
  • Can someone ask for less work?
  • Is work evenly distributed?
  • Is there respect for the vacation and sick time of others, such as not emailing or calling a person that is out of the office?
Poll 2

• Is it easy to request and take time off at your organization?
  • Yes
  • No
Workload

• How is work divided in your office?
  • Does this vary by team?
  • Is it equitably divided?
  • How easy it is to ask for help?
  • Is work divided in such a way that it makes it impossible to take time off?
Leave Policies

• What are your leave policies
  • Do staff receive enough leave time?
  • Are leave policies overly complicated?
  • Are employees taking time off?
  • Is there a positive culture around taking time off?
  • Are people working during their vacations?
  • Is there questioning of the use of sick time?
  • Is it clear that sick time includes mental health-related leave?
  • Are staff leaving overtime worked off of their time sheet?
Space for Reflection

• Where can your employees discuss the work they are doing?
  • Is there a set up reflection group?
  • Consider that employees may not feel comfortable sharing around their direct supervisors
  • Do you regularly check-in with the employees you supervise?
  • Who can an employee reach out to if they are having trouble?
  • Do you have an Employee Assistance Program available through the workplace or state bar association?
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