

ABA Policy on Trauma-Informed Advocacy for Children and Youth

**Approved by the American Bar Association House of Delegates
February 10, 2014**

RESOLVED, That the American Bar Association urges the development of trauma-informed, evidence-based approaches and practices on behalf of justice system-involved children and youth who have been exposed to violence, including victims of child abuse and neglect or other crimes and those subject to delinquency or status offense proceedings, by:

- (a) Recognizing the impact that current or prior exposure to violence and trauma has on physical, emotional, psychological, and behavioral development and well-being;
- (b) Responding to child traumatic stress through legal representation that reflects awareness of trauma's adverse impacts on children and youth who have contact with the legal system; and
- (c) Acting in collaboration with other professionals involved with the child or youth to facilitate and support recovery and resiliency of the child and family.

FURTHER RESOLVED, That the American Bar Association urges federal, state, local, tribal and territorial bar associations, working with judges, lawyers, and other professionals with subject matter expertise in trauma-informed systems of care, to develop and implement training programs for judges, child welfare attorneys, prosecutors, defense counsel, and law students that will enable them to integrate trauma knowledge into daily legal practice and integrate and sustain trauma awareness, knowledge, and skills in practice and policies.

FURTHER RESOLVED, That the American Bar Association encourages court systems, lawyers, law schools, and bar associations to promote awareness of secondary trauma among legal professionals working with traumatized children and youth and to develop positive strategies for addressing secondary trauma among those involved with children and youth in the justice system.

REPORT

Introduction

Current research indicates that a significant number of children and youth in the United States are affected by trauma.¹ Trauma results from experiencing an intense event that involves harm or the threat of harm to one's physical or emotional well-being.² Traumatic events include witnessing or being the victim of violence, serious injury, or physical or sexual abuse.³ Exposure to war, terrorism, or natural disasters can also contribute to the development of traumatic stress.⁴

Children and youth in the child welfare and juvenile justice systems suffer from trauma at particularly high rates.⁵ Removal from the home and entry into foster care or a juvenile detention facility can itself be a traumatic experience for children and youth and is referred to as system-induced trauma.⁶ Unaddressed trauma can negatively impact children and youth throughout childhood and into adulthood.⁷ A trauma-informed system of care recognizes that experiencing a traumatic event can have long-lasting negative effects and seeks to mitigate those

¹ See DAVID FINKELHOR ET AL., POLYVICTIMIZATION: CHILDREN'S EXPOSURE TO MULTIPLE TYPES OF VIOLENCE, CRIME, AND ABUSE 1 (Office of Juvenile Justice and Delinquency Prevention, U.S. Dep't of Justice 2011), *available at* <http://www.ncjrs.gov/pdffiles1/ojjdp/235504.pdf> (reporting that the National Survey of Children's Exposure to Violence, conducted in 2008, found that 49% of surveyed children had experienced two or more types of victimizations in the past year).

² *What is Child Traumatic Stress?*, CLAIMING CHILDREN (Nat'l Child Traumatic Stress Network, Los Angeles, C.A.), Fall 2003, at 1, *available at* <http://www.nctsn.org/resources/audiences/parents-caregivers/what-is-cts>.

³ *Id.*

⁴ *Id.*

⁵ See LISA PILNIK & JESSICA R. KENDALL, VICTIMIZATION AND TRAUMA EXPERIENCED BY CHILDREN AND YOUTH: IMPLICATIONS FOR LEGAL ADVOCATES 2 (Safe Start Ctr., Office of Juvenile Justice and Delinquency Prevention, U.S. Dep't of Justice 2012) [hereinafter PILNIK & KENDALL, VICTIMIZATION AND TRAUMA], *available at* http://www.safestartcenter.org/pdf/issue-brief_7_courts.pdf (mentioning a 2010 national study which found that 12% of alleged child abuse and neglect victims had increased symptoms of post-traumatic stress disorder, as compared with 2% of the general population); KAREN M. ABRAM ET AL., PTSD, TRAUMA, AND COMORDID PSYCHIATRIC DISORDERS IN DETAINED YOUTH 1 (Office of Juvenile Justice and Delinquency Prevention, U.S. Dep't of Justice 2013), *available at* <http://www.ojjdp.gov/pubs/239603.pdf> (discussing the Northwestern Juvenile Project, which found that 92.5% of youth at a temporary detention center in Chicago had experienced at least one trauma).

⁶ See LISA PILNIK & JESSICA R. KENDALL, IDENTIFYING POLYVICTIMIZATION AND TRAUMA AMONG COURT-INVOLVED CHILDREN AND YOUTH: A CHECKLIST AND RESOURCE GUIDE FOR ATTORNEYS AND OTHER COURT-APPOINTED ADVOCATES 2 (Safe Start Ctr., Office of Juvenile Justice and Delinquency Prevention, U.S. Dep't of Justice 2012) [hereinafter PILNIK & KENDALL, IDENTIFYING POLYVICTIMIZATION AND TRAUMA], *available at* http://www.safestartcenter.org/pdf/Resource-Guide_Polyvictim.pdf ("Entering a juvenile detention facility, removal from home or a foster care placement, or conflicts with or negative developments involving a child's family members can be a traumatic experience for a child or serve as a trigger for past traumatic experiences."); *Types of Traumatic Experiences*, CTR. FOR EARLY CHILDHOOD MENTAL HEALTH CONSULTATION, http://www.ecmhc.org/tutorials/trauma/mod1_3.html (last visited Oct. 31, 2013) (explaining that system-induced trauma includes "traumatic removal from the home, traumatic foster placement, sibling separation, or multiple placements in a short amount of time").

⁷ See *infra* pp. 5-7 (discussing the negative consequences of trauma).

effects through evidence-based treatment models.⁸ It is important for legal professionals who work with children and youth in the child welfare and juvenile justice systems to be aware of the negative effects of trauma and to be knowledgeable about trauma-informed practices.⁹ Legal professionals who are trauma-informed can participate in a trauma-informed system of care that identifies traumatized children and youth and provides them with the appropriate services to overcome their negative experiences.

Trauma-informed systems serving children and youth in the child welfare and juvenile justice systems must:

- (1) understand and consider the legal implications of routine screening for trauma exposure and related symptoms, especially when alleged juvenile offenders first enter the justice system;
- (2) use culturally appropriate evidence-based assessment and treatment for traumatic stress and associated mental health symptoms
- (3) make resources available to children, families, and stakeholders on trauma exposure, its impact, and treatment;
- (4) engage in efforts to strengthen the resilience and protective factors of children and families impacted by and vulnerable to trauma;
- (5) address parent and caregiver trauma and its impact on the family system;
- (6) emphasize continuity of care and collaboration across child-service systems; and
- (7) maintain an environment of care for staff that addresses, reduces, and treats secondary traumatic stress, and that increases staff resilience.¹⁰

The American Bar Association (“ABA”) has previously acknowledged the importance of trauma-informed practices. The ABA Center on Children and the Law has worked with the Safe Start Center, funded by the Office of Juvenile Justice and Delinquency Prevention at the U.S. Department of Justice, to help them develop and publish a practice guide for attorneys who work with children and youth.¹¹ The guide, entitled *Identifying Polyvictimization and Trauma Among Court-Involved Children and Youth: A Checklist and Resource Guide for Attorneys and Other Court-Appointed Advocates*, provides a checklist of different types of traumatic experiences and symptoms of trauma that may allow attorneys to determine whether their clients have experienced trauma and identify which services may be most beneficial to address their needs.¹²

⁸ See PILNIK & KENDALL, VICTIMIZATION AND TRAUMA, *supra* note 5, at 3 (noting that exposure to family and community violence has been linked to post-traumatic stress disorder, depression, low self-esteem, anxiety, aggression, poor social functioning, and poor academic performance); Susan E. Craig, Presentation at the American Bar Association Annual Meeting: A Trauma-Sensitive Approach to Engaging Clients 1 (July 11, 2013) (stating that a trauma-sensitive approach “uses research-based practices to anticipate problems associated with the biology of trauma, and to implement strategies intended to minimize its effects”).

⁹ See Joy D. Osofsky, *Developing Trauma-Informed Approaches to Children in Courts*, COURT APPOINTED SPECIAL ADVOCATES FOR CHILDREN, http://www.casaforchildren.org/site/a.mt_JSJ7MPiE/b.8173515/k.980C/JP_9_Osofsky.htm (last visited Sept. 3, 2013) (asserting that “understanding the impact of trauma on children of all ages and being trauma-informed is very important for judges, lawyers, court appointed special advocates, and all systems that interface with the juvenile court”).

¹⁰ *Creating Trauma-Informed Systems*, NAT’L CHILD TRAUMATIC STRESS NETWORK, <http://www.nctsn.org/resources/topics//creating-trauma-informed-systems> (last visited Oct. 31, 2013).

¹¹ See generally PILNIK & KENDALL, IDENTIFYING POLYVICTIMIZATION AND TRAUMA, *supra* note 6.

¹² See *id.* at 3-5 (providing list of potential traumas and trauma symptoms).

Building on this initial effort, the ABA Center on Children and the Law, under the federally funded Office for Victims of Crime (OVC) Action Partnerships for National Membership, Professional Affiliation, and Community Service Organizations Responding to Polyvictimization, is addressing the unmet need for trauma-informed legal advocacy and judicial decision-making for court-involved children and youth experiencing trauma. This effort will develop continuing legal education (CLE) programs, publish articles in the ABA Child Law Practice, and develop a training curriculum on trauma-informed legal advocacy.

The ABA has also adopted resolutions that promote the use of trauma-informed practices. The ABA recently adopted a resolution on the U.S. Attorney General's National Task Force on Children's Exposure to Violence ("Task Force"), which supports the use of trauma-informed practices for youth in the juvenile justice system.¹³ The Task Force released a report in December of 2012 that contained fifty-six recommendations for addressing the needs of children exposed to violence.¹⁴ The report recommends that youth entering the juvenile justice system be screened for exposure to violence in accordance with trauma-informed practices.¹⁵ The report acknowledges that the behavior of many youth in the juvenile justice system is negatively impacted by their experiences with violence and that these youth need appropriate help and services to address their underlying trauma.¹⁶

The Task Force report further recommends that juvenile justice facilities avoid correctional practices that traumatize youth, such as solitary confinement.¹⁷ The report urges that practices like solitary confinement be abandoned and replaced with trauma-informed programs that screen, assess, and provide services for youth affected by trauma.¹⁸ Additionally, the report recommends that attorneys who represent youth in the juvenile justice system receive training on trauma so they can effectively advocate for the services their clients need.¹⁹ The ABA endorsed the Task Force report in its entirety, including the recommendations related to trauma-informed practices.²⁰

¹³ Comm'n on Youth at Risk, *Children's Exposure to Violence Task Force Recommendations*, AM. BAR ASS'N 4-5 (Aug. 2013), http://www.americanbar.org/content/dam/aba/administrative/youth_at_risk/aba_defending_childhood_resolution_and_report_approved_8-12-13.authcheckdam.pdf [hereinafter *Children's Exposure to Violence*] (explaining that the Task Force recommendations on trauma-informed practices align with existing ABA policy).

¹⁴ See generally NAT'L TASK FORCE ON CHILDREN EXPOSED TO VIOLENCE, U.S. DEP'T OF JUSTICE, REPORT OF THE ATTORNEY GENERAL'S NATIONAL TASK FORCE ON CHILDREN EXPOSED TO VIOLENCE (2012) [hereinafter NATIONAL TASK FORCE REPORT], available at <http://www.justice.gov/defendingchildhood/cev-rpt-full.pdf> (offering fifty-six recommendations for addressing the needs of children exposed to violence).

¹⁵ See *id.* at 176 (recommending that "trauma-informed screening, assessment, and care" should be "the standard in juvenile justice services").

¹⁶ See *id.* at 176-77 (noting that "many youth involved in juvenile justice are not maliciously aggressive but in fact are reacting defensively because of their exposure to violence").

¹⁷ *Id.* at 177-78. See also SUE BURRELL, TRAUMA AND THE ENVIRONMENT OF CARE IN JUVENILE INSTITUTIONS 1 (Nat'l Child Traumatic Stress Network 2013), available at http://www.nctsn.org/sites/default/files/assets/pdfs/jj_trauma_brief_environmentofcare_burrell_final.pdf (stating that "research on solitary confinement of detained youth has found that it is routinely used and extremely damaging").

¹⁸ NATIONAL TASK FORCE REPORT, *supra* note 14, at 179.

¹⁹ *Id.* at 185.

²⁰ *Children's Exposure to Violence*, *supra* note 13, at 1.

The previously passed policy work embraces the recommendations of the *Defending Childhood* report, which while expansive are not tailored to needs of the juvenile legal community. This subsequently proposed policy aims to fill the gaps in the *Defending Childhood* report recommendations by specifically addressing how child welfare and juvenile justice court systems can be modified to address the pressing need of trauma-sensitivity in legal representation and advocacy. The *Defending Childhood* report was written for a larger audience of child-serving systems. It did include recommendations for affected youth entering the juvenile justice system; however, attention on how attorneys and court personnel can incorporate trauma-sensitivity into child welfare and dependency court proceedings was lacking. The newly proposed resolution and report will enhance the previous resolution's recommendations while providing information more relevant and specific to the ABA's membership practice.

In addition to the resolution on the U.S. Attorney General's National Task Force on Children's Exposure to Violence, the ABA has adopted two other resolutions that promote trauma-informed practices for children and youth. A resolution on diversion of juvenile status offenders supports the use of evidence-based early intervention and diversion programs to provide services for juvenile status offenders and their families.²¹ A child trafficking resolution acknowledges that child trafficking victims suffer a traumatic experience and therefore urges law enforcement officials to refrain from charging them with crimes.²² That resolution also calls for mandatory screening and assessment to determine if youth are at risk for trafficking and recommends that victims receive prompt medical, mental health, and substance abuse treatment.²³ Support for the use of trauma-informed, evidence-based practices for children and youth in the child welfare and juvenile justice systems is therefore consistent with past ABA policy resolutions.

Trauma Affecting Children Involved in the Justice System

Children and youth in the United States suffer from the effects of trauma at significantly higher rates than have previously been recognized. One out of every four children in the United States has experienced a traumatic event by age four and many children experience multiple traumas by age nine.²⁴ The National Survey of Children's Exposure to Violence, conducted in 2008, focused on the entire spectrum of children's exposure to violence, crime, and abuse.²⁵ The survey found that 49% of surveyed children had been exposed to two or more types of violence in the previous year.²⁶ The survey also found that 39% of surveyed children had been the

²¹ Comm'n on Youth at Risk, *Diversion of Juvenile Status Offenders*, AM. BAR ASS'N (Aug. 2007), http://www.americanbar.org/groups/youth_at_risk/commission_policyresolutions/diversion_of_juvenile_status_offenders.html.

²² Comm'n on Youth at Risk, *Child Trafficking*, AM. BAR ASS'N (Aug. 2011), http://www.americanbar.org/groups/youth_at_risk/commission_policyresolutions/child_trafficking.html.

²³ *Id.*

²⁴ Craig, *supra* note 8, at 1.

²⁵ FINKELHOR ET AL., *supra* note 1, at 1.

²⁶ *Id.* at 4.

victims of violence more than once in the previous year and that 11% had been the victims of five or more different types of violence.²⁷

Children and youth in the child welfare and juvenile justice systems experience trauma and its consequences at disproportionately higher rates than their non-system-involved peers. A national study in 2010 found that almost 12% of alleged child abuse and neglect victims had increased symptoms of post-traumatic stress disorder (“PTSD”).²⁸ A 2006 study found that children and youth who have experienced maltreatment suffer from PTSD at a higher rate than war veterans.²⁹ Additionally, 80% of youth who age out of the child welfare system have received a psychiatric diagnosis.³⁰

Youth in the juvenile justice system are twice as likely as other youth to have had past traumatic experiences and to meet the diagnostic criteria for PTSD, according to two studies conducted in 2008 and 2012.³¹ From 1995 to 1998, the Northwestern Juvenile Project conducted a study which analyzed the rates of trauma exposure and PTSD among youth in the Cook County Juvenile Temporary Detention Center in Chicago.³² The study found that 92.5% of youth had experienced at least one trauma, 84% had experienced more than one trauma, and 56.8% had experienced trauma six times or more.³³ More than one out of every ten youth had PTSD in the year prior to being interviewed for the study and, of the youth with PTSD, 93% percent had at least one additional psychiatric disorder.³⁴

The significant number of children and youth who have experienced trauma is concerning for a number of reasons. For young children, early childhood trauma can adversely impact how their brains develop, including the neural pathways that enable them to learn and make connections.³⁵ Trauma can disrupt a child’s current as well as subsequent developmental phases.³⁶ The younger a child is, the greater the risk that the traumatic experience will become a

²⁷ *Id.* at 1.

²⁸ David J. Kolko et al., *Posttraumatic Stress Symptoms in Children and Adolescents Referred for Child Welfare Investigation: A National Sample of In-Home and Out-of-Home Care*, 15 CHILD MALTREATMENT 48, 60 (2010).

²⁹ Connie Black-Pond & James Henry, *A Trauma-Informed Child Welfare System Practice: The Essential Elements*, MICH. CHILD WELFARE L. J., Winter 2007, at 11, 11, available at http://www.chanceatchildhood.msu.edu/pdf/CWLJ_winter_1.pdf.

³⁰ AM. ACAD. OF PEDIATRICS, HELPING FOSTER AND ADOPTIVE FAMILIES COPE WITH TRAUMA 2 (2013), available at <http://www.aap.org/en-us/advocacy-and-policy/aap-health-initiatives/healthy-foster-care-america/Documents/Guide.pdf>.

³¹ PILNIK & KENDALL, VICTIMIZATION AND TRAUMA, *supra* note 5, at 2 (citing Julian D. Ford et al., *Traumatic Victimization, Posttraumatic Stress Disorder, Suicidal Ideation, and Substance Abuse Risk Among Juvenile Justice-Involved Youth*, 1 J. CHILD & ADOLESCENT TRAUMA 75 (2008); Julian D. Ford & Josephine Hawke, *Trauma Affect Regulation Psycho-Education Group Attendance Is Associated With Reduced Disciplinary Incidents and Punitive Sanctions in Juvenile Detention Facilities*, 21 J. AGGRESSION, MALTREATMENT & TRAUMA 365 (2012)).

³² ABRAM ET AL., *supra* note 5, at 1.

³³ *Id.*

³⁴ *Id.*

³⁵ Kelly Ebbels, *On Our Minds: The Hidden Scars of Child Trauma*, MONTCLAIR TIMES (Aug. 15, 2013, 3:01 PM), http://www.northjersey.com/news/219812141_The_Montclair_Times_On_Our_Minds_The_hidden_scars_of_child_trauma.html. See also AM. ACAD. OF PEDIATRICS, *supra* note 30, at 5 (explaining that learning under conditions of extreme stress causes changes in the developing brain).

³⁶ THEODORE GAENSBAUER, DEVELOPMENTAL AND THERAPEUTIC ASPECTS OF TREATING INFANTS AND TODDLERS WHO HAVE WITNESSED VIOLENCE 18 (Zero to Three: Nat’l Ctr. for Infants, Toddlers, & Families 1996), available at <http://www.>

central aspect of the child's identity and the more difficult it will be for the child to address the trauma and overcome it.³⁷

For older children and youth, exposure to family and community violence has been linked to PTSD symptoms, depression, low self-esteem, anxiety, aggression, poor social functioning, and poor academic performance.³⁸ Multiple chronic traumatic events can result in deficits with language and cognition, emotional and behavioral impairments, and social and emotional disturbances.³⁹ Children and youth who have experienced multiple traumas are also more likely to engage in behaviors that will result in involvement with the juvenile justice system.⁴⁰ Those who have experienced four or more traumas are four to twelve times more likely to struggle with depression, suicide attempts, alcoholism, and drug abuse as adults.⁴¹ Additionally, medical research on adverse childhood experiences has found a strong correlation between the extent of exposure to childhood abuse, neglect, or family dysfunction and several leading causes of death in adults, including depression, heart disease, liver disease, and stroke.⁴²

Children and youth with disabilities are at greater risk for experiencing trauma and thus have an increased risk of suffering from the negative outcomes described above.⁴³ For example, studies have shown that children and youth with disabilities are 3.79 times more likely to be physically abused and 3.14 to 4.62 times more likely to be sexually abused than non-disabled children and youth.⁴⁴

LGBTQ youth are also at greater risk, particularly for bullying and violence.⁴⁵ LGBTQ youth often face family rejection, harassment at school, and emotional, physical, and/or emotional abuse related to their orientation.⁴⁶ Additionally, the stress and danger associated with sharing a non-heterosexual orientation are heightened when LGBTQ youth have experienced

zerotothree.org/maltreatment/trauma/vol16-5p15.pdf.

³⁷ *Id.*

³⁸ CHRISTINE B. SIEGFRIED ET AL., VICTIMIZATION AND JUVENILE OFFENDING 4 (Nat'l Child Traumatic Stress Network 2004), available at http://www.nctsn.org/sites/default/files/assets/pdfs/victimization_juvenile_offending.pdf.

³⁹ Black-Pond & Henry, *supra* note 29, at 11.

⁴⁰ Craig, *supra* note 8, at 1.

⁴¹ PILNIK & KENDALL, VICTIMIZATION AND TRAUMA, *supra* note 5, at 3 (citing V.J. Felitti et al., *Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults: The Adverse Childhood Experiences (ACE) Study*, 14 AM. J. PREVENTIVE MEDICINE 245 (1998)).

⁴² AM. ACAD. OF PEDIATRICS, *supra* note 30, at 6.

⁴³ Janice L. Cooper et al., *Strengthening Policies to Support Children, Youth, and Families Who Experience Trauma* 8 (Nat'l Ctr. for Children in Poverty Working Paper No. 2, 2007), available at http://www.nccp.org/publications/pdf/text_737.pdf.

⁴⁴ Patricia M. Sullivan & John F. Knutson, *Maltreatment and Disabilities: A Population-Based Epidemiological Study*, 24 CHILD ABUSE & NEGLECT 1257, 1265-66 (2000); Emily M. Lund & Jessica E. Vaughn-Jensen, *Victimisation of Children With Disabilities*, 380 LANCET 867, 868 (2012).

⁴⁵ Al Killen-Harvey & Heidi Stern-Ellis, *Trauma Among Lesbian, Gay, Bisexual, Transgender, or Questioning Youth*, NAT'L CHILD TRAUMATIC STRESS NETWORK 2 (2006), http://www.nctsn.org/sites/default/files/assets/pdfs/culture_and_trauma_brief_LGBTQ_youth.pdf (noting that a 2003 survey of LGBTQ youth found that 84% of LGBTQ students were called names or had their safety threatened as a result of their orientation in the previous year and that 64% of LGBTQ students felt unsafe at school).

⁴⁶ *Id.* at 1.

trauma.⁴⁷ LGBTQ youth who have experienced trauma have higher rates of suicide and are more vulnerable to hate crime victimization.⁴⁸

What Can Be Done to Aid Traumatized Children?

The negative effects and outcomes of childhood trauma can be reduced by appropriate responses to and treatment of trauma during the childhood period.⁴⁹ Research has shown that people who have experienced traumatic events have the capacity for resilience.⁵⁰ Resilience refers to a person's ability to adapt and grow from adverse experiences.⁵¹ Children and youth have the capacity for resilience and can overcome the negative impacts of trauma if they receive proper help and care.⁵² A trauma-informed system of care is the best possible means of providing children and youth with the services they need to be resilient.

The foundation for any system of trauma-informed care is an acknowledgement that experiencing trauma can result in negative effects, often manifested as behavioral problems, that may persist long after the initial traumatic incident.⁵³ A trauma-informed approach seeks to help children and youth overcome their problems by addressing the underlying effects of trauma that inform their behaviors and worldviews.⁵⁴ Trauma-informed care uses evidence-based practices to anticipate the effects of trauma on children and youth and to implement treatment methods designed to mitigate those effects.⁵⁵ Trauma-informed care also recognizes the value of cross-systems collaboration to identify and resolve the problems associated with trauma.⁵⁶

There is growing awareness of the value and importance of trauma-informed practices for children and youth in the child welfare and juvenile justice systems. Research and studies have begun to analyze the negative impacts of trauma and to look specifically at the rates at which children and youth in the child welfare and juvenile justice systems experience traumatic events.⁵⁷ Various interest groups have produced informational materials about trauma and its effects.⁵⁸

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ See Eliza Patten & Talia Kraemer, *Practice Recommendations for Trauma-Informed Legal Services* 3 (Legal Services for Children, Working Draft, 2013) (noting that “early intervention, and a coordinated response, has the potential to mitigate trauma’s long-term harmful effects”); AM. ACAD. OF PEDIATRICS, *supra* note 30, at 6 (stating that “persistent health disparities associated with poverty and child maltreatment could be reduced by the treatment and alleviation of ACEs in childhood”); KRISTINE BUFFINGTON ET AL., TEN THINGS EVERY JUVENILE COURT JUDGE SHOULD KNOW ABOUT TRAUMA AND DELINQUENCY 8 (Nat’l Council of Juvenile & Family Court Judges 2010), *available at* http://www.ncjfcj.org/sites/default/files/trauma%20bulletin_1.pdf (explaining that trauma assessments can promote positive outcomes for children and youth who have experienced trauma).

⁵⁰ Ebbels, *supra* note 35.

⁵¹ *Id.*

⁵² BUFFINGTON ET AL., *supra* note 49, at 11.

⁵³ Michael L. Howard & Robin R. Tener, *Children Who Have Been Traumatized: One Court’s Response*, 59 *Juvenile and Family Court Journal* 21, 24 (2008).

⁵⁴ *Id.*

⁵⁵ Craig, *supra* note 8, at 1.

⁵⁶ *Id.*

⁵⁷ See, e.g., AM. ACAD. OF PEDIATRICS, *supra* note 30, at 6 (discussing the Adverse Childhood Experience Study, which found a strong correlation between adverse childhood experiences and several leading causes of death in adults);

Research has identified effective treatment models for addressing trauma and its aftermath. Trauma-focused cognitive behavioral therapy (“TF-CBT”) is one effective therapeutic approach.⁵⁹ TF-CBT is a structured, evidence-based treatment method which involves some or all of the following elements: (1) teaching stress management and relaxation skills; (2) talking about the traumatic event at a speed which does not distress the child; (3) creating a coherent narrative or story of what happened; (4) correcting untrue or distorted ideas about what happened and why; (5) changing unhealthy and wrong views resulting from the trauma; and (6) involving parents in the therapeutic process.⁶⁰ Trauma-informed cognitive behavioral therapy for childhood traumatic grief, abuse-focused cognitive behavioral therapy, and child-parent psychotherapy for family violence are also effective treatment models for children and youth affected by trauma.⁶¹

Concerns Requiring Legal System Attention

Despite positive steps to increase awareness of trauma and to implement trauma-informed practices for children and youth in the child welfare and juvenile justice systems, many areas still need improvement. Limited access to trauma treatment is an issue that impacts children and youth in both the child welfare and juvenile justice systems. Trauma-informed treatment models are not yet widespread and can be costly to implement.⁶² Many jurisdictions across the country lack sufficient resources to provide every child and youth with the trauma-informed services they need.⁶³ The Traumatized Child Task Force in Stark County, Ohio makes efforts to build capacity for trauma treatment because such treatment is not always available due to high demand and limited funding.⁶⁴

Federal law has recently recognized the importance of trauma-informed care and now requires states to take steps to respond to the emotional trauma of children and youth in the child welfare system.⁶⁵ Trauma screenings and assessments for children and youth, in addition to

PILNIK & KENDALL, VICTIMIZATION AND TRAUMA, *supra* note 5, at 2 (mentioning a 2010 national study which measured the rates of PTSD symptoms in alleged child abuse and neglect victims); ABRAM ET AL., *supra* note 5, at 1 (describing the Northwestern Juvenile Project, which studied the rates at which youth in a temporary detention center had experienced trauma throughout their lives).

⁵⁸ See generally, e.g., *What is Child Traumatic Stress?*, *supra* note 2; ABRAM ET AL., *supra* note 5; PILNIK & KENDALL, VICTIMIZATION AND TRAUMA, *supra* note 5.

⁵⁹ Frank E. Vandervort et al., *Building Resilience in Foster Children: The Role of the Child’s Advocate*, CHILD. LEGAL RTS. J., Fall 2012, at 1, 9 [hereinafter Vandervort et al., *Building Resilience*].

⁶⁰ *Id.*; *Effective Treatments for Youth Trauma*, CLAIMING CHILDREN (Nat’l Child Traumatic Stress Network, Los Angeles C.A.), Fall 2003, at 1, available at http://www.nctsn.org/sites/default/files/assets/pdfs/effective_treatments_youth_trauma.pdf.

⁶¹ Frank E. Vandervort, *The Impact of Traumatic Stress and Alcohol Exposure on Youth: Implications for Lawyers, Judges, and Courts*, MICH. CHILD WELFARE L. J., Winter 2007, at 42, 49 [hereinafter Vandervort, *The Impact of Traumatic Stress*].

⁶² PILNIK & KENDALL, VICTIMIZATION AND TRAUMA, *supra* note 5, at 10.

⁶³ *Id.*

⁶⁴ Howard & Tener, *supra* note 53, at 32.

⁶⁵ Child and Family Services Improvement and Innovation Act, Pub. L. 112-34, sec. 101(b)(1), § 422(b)(15)(A)(ii), 125 Stat. 369, 369 (2011).

services for parents, can help attorneys advocate for the appropriate services that members of the family may need.

Juvenile justice system practices also require improvement in order to ensure that youth in that system receive trauma-informed care. Many juvenile correctional facilities do not screen and assess youth for trauma when they first enter the facilities, even though doing so would benefit the youth.⁶⁶ Screenings and assessments help direct youth to appropriate services which enable them to safely address their experiences with trauma and their subsequent behaviors.⁶⁷ Some routine juvenile justice practices, such as solitary confinement, isolation, and restraint, can further traumatize youth and cause them additional harm.⁶⁸ Youth who spend extended amounts of time in solitary confinement, for example, are most likely to attempt or commit suicide.⁶⁹

Despite positive progress in increasing trauma awareness and implementing trauma-informed practices, there are aspects of both the child welfare and juvenile justice systems that require improvement in order to provide children and youth with trauma-informed care. Helping achieve such improvements should be a focus of the work of attorneys and judges who work in these systems.

Practice Reforms to Better Address Child/Youth Trauma

It is simply “good practice” for legal professionals who work with children and youth in the child welfare and juvenile justice systems to be aware of the effects of trauma and to engage in trauma-informed practices. There are many ways to raise awareness of the importance of trauma and trauma-informed practices among legal professionals, including law school clinics, continuing legal education and training, trauma-informed court initiatives, child welfare and juvenile justice initiatives, and cross-systems collaborations.

Awareness of trauma and its impact on children and youth can start in law school. Law schools can provide seminars on trauma. The Katherine and George Alexander Community Law Center at Santa Clara University offers a course on trauma and the law that informs students about trauma and teaches them techniques for representing traumatized clients.⁷⁰ Law schools can also incorporate information about trauma into other coursework, such as classes on criminal justice or mental health.

Clinics are another way to provide law students with the opportunity to learn about trauma. Harvard Law School and Massachusetts Advocates for Children formed the Trauma and

⁶⁶ See NAT'L TASK FORCE REPORT, *supra* note 14, at 176 (2012) (noting that many residential juvenile justice facilities have staff with insufficient training to meet youth's needs and recommending that facilities screen and assess youth for trauma when they enter the juvenile justice system).

⁶⁷ See *id.* at 176-77 (stating that youth in the juvenile justice system may benefit from “interventions that help them develop skills for dealing with fear and hopelessness and from behavior management programs that engage them actively in making their lives and environments safer”).

⁶⁸ *Id.* at 175.

⁶⁹ *Id.* at 178.

⁷⁰ Inst. Redress & Recovery, *Secondary Trauma: A Primer*, SANTA CLARA LAW, <http://www.scu.edu/redress/Secondary-trauma-a-primer/> (last visited Oct. 31, 2013).

Learning Policy Initiative in 2004.⁷¹ Harvard's Education Law Clinic is part of the Trauma and Learning Policy Initiative.⁷² Law students in the clinic learn about the impact of trauma on children's ability to learn and engage in direct representation of parents whose children have been exposed to family violence or other traumatic experiences and are not receiving the special education services they require.⁷³

Trauma-informed courts can take steps to identify and provide appropriate services for children and youth who have experienced trauma. In the Stark County Family Court in Ohio, for example, which handles child welfare and juvenile justice cases, the court provides trauma training for judges and staff.⁷⁴ The court also utilizes a screening tool during the intake process to identify children and youth who have experienced trauma.⁷⁵ In addition to making its own practices trauma-informed, the court participated in the creation of a Traumatized Child Task Force which endeavors to inform the local community about trauma and build capacity for trauma treatment.⁷⁶

In New York, the New York State Child Welfare Court Improvement Project offers resources and technical assistance to support the safety and well-being of children and youth in the child welfare system.⁷⁷ For example, it has published a guide for attorneys on interviewing traumatized children and youth.⁷⁸ The Court Improvement Project also currently supports a two-year trauma initiative in the Chautauqua County Family Court.⁷⁹ The Chautauqua initiative provides multidisciplinary trauma trainings to judges, attorneys, court staff, and social services workers.⁸⁰ Children and youth ten years of age and older are offered the opportunity to attend a court orientation before their first child welfare permanency hearing.⁸¹ The initiative assumes that every family which enters the court system has experienced trauma and will benefit from trauma-informed practices.⁸²

Juvenile justice departments can also participate in a trauma-informed system of care. The Florida Department of Juvenile Justice formed a Trauma-Informed Care Initiative with other

⁷¹ *Trauma and Learning Policy Initiative*, MASS. ADVOCATES FOR CHILDREN, <http://www.massadvocates.org/trauma-learning.php> (last visited Oct. 31, 2013).

⁷² *Education Law Clinic/Trauma and Learning Policy Initiative*, HARVARD LAW SCHOOL (March 26, 2013), <http://www.law.harvard.edu/academics/clinical/clinics/education.html>.

⁷³ *Id.*

⁷⁴ Howard & Tener, *supra* note 53, at 26.

⁷⁵ *Id.*

⁷⁶ *Id.* at 32.

⁷⁷ *Child Welfare Court Improvement Project*, NEW YORK COURTS (July 2, 2012), <http://www.nycourts.gov/ip/cwcip/index.shtml>.

⁷⁸ See generally KAREN A. REITMAN, ATTORNEYS FOR CHILDREN GUIDE TO INTERVIEWING CLIENTS: INTEGRATING TRAUMA INFORMED CARE AND SOLUTION FOCUSED STRATEGIES (Judith S. Claire & Aimee L. Neri eds., 2011), available at <http://www.nycourts.gov/ip/cwcip/Publications/attorneyGuide.pdf>.

⁷⁹ PILNIK & KENDALL, VICTIMIZATION AND TRAUMA, *supra* note 5, at 8.

⁸⁰ *Id.* at 9.

⁸¹ *Id.* at 8-9.

⁸² *Id.* at 9.

state agencies in 2009.⁸³ The goal of the Trauma-Informed Care Initiative is to “interrupt the trauma cycle and provide treatment services that promote healing.”⁸⁴ In furtherance of this goal, the Department offers resources and trainings on trauma to its staff.⁸⁵ In Connecticut, all youth entering state-run juvenile detention facilities are screened for trauma history through a collaborative effort between the University of Connecticut Health Center and the Connecticut Court Support Services Division.⁸⁶ Youth who are identified as having experienced trauma receive evidence-based treatment services.⁸⁷

Cross-systems collaboration is an important aspect of any trauma-informed system of care. The Center for Child & Family Health in Durham, North Carolina provides multidisciplinary support and services to families that have experienced trauma.⁸⁸ The Center offers medical, legal, mental health, and substance abuse programming.⁸⁹ The Legal Director of the Center provides training on expert testimony related to trauma and on how to support children and youth who are preparing to testify.⁹⁰ In Michigan, the Southwest Michigan Children’s Trauma Assessment Center offers comprehensive trauma assessments for children and youth in the child welfare and juvenile justice systems.⁹¹ The assessments involve professionals from multiple disciplines, including medicine, social work, occupational therapy, and speech and language pathology.⁹² The Center also provides trainings to professionals who work within the child welfare and juvenile justice systems on the impact of trauma on brain development.⁹³

Addressing Secondary Trauma Experienced by Lawyers and Judges

Any trauma-informed system of care that seeks to help traumatized children and youth must include awareness of and practices for addressing secondary trauma. Secondary trauma refers to the “cumulative physical, emotional, and psychological effects of continual exposure to traumatic stories or events when working in a helping capacity.”⁹⁴ Secondary trauma is also

⁸³ *Trauma-Informed Care*, FLA. DEP’T JUVENILE JUSTICE, <http://www.djj.state.fl.us/partners/our-approach/Trauma> (last visited Oct. 31, 2013).

⁸⁴ *Id.*

⁸⁵ *See id.*; *Other Initiatives*, FLA. DEP’T JUVENILE JUSTICE, <http://www.djj.state.fl.us/services/support/staff-development/other-initiatives> (last visited Oct. 31, 2013).

⁸⁶ PILNIK & KENDALL, *VICTIMIZATION AND TRAUMA*, *supra* note 5, at 9.

⁸⁷ *Id.*

⁸⁸ *Id.*; *See also Services*, CTR. CHILD & FAMILY HEALTH, <http://www.ccfhnc.org/services.php> (last visited Oct. 31, 2013) (stating that the Center’s programming consists of services and support for children and families who have been exposed to violence and other traumatic events).

⁸⁹ PILNIK & KENDALL, *VICTIMIZATION AND TRAUMA*, *supra* note 5, at 9. *See also Services*, *supra* note 88 (describing the Center’s four branches of programming: medical evaluation, mental health, prevention and early childhood, legal programs).

⁹⁰ PILNIK & KENDALL, *VICTIMIZATION AND TRAUMA*, *supra* note 5, at 9.

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.*

⁹⁴ Dianne Molvig, *The Toll of Trauma*, WIS. LAW. (Dec. 2011), <http://www.wisbar.org/NewsPublications/WisconsinLawyer/Pages/Article.aspx?Volume=84&Issue=12&ArticleID=2356>. *See also* NAT’L CHILD TRAUMATIC STRESS NETWORK, *SECONDARY TRAUMATIC STRESS: A FACT SHEET FOR CHILD-SERVING PROFESSIONALS 1-2* (2011), *available at* <http://www.nrccps>.

called vicarious trauma or compassion fatigue.⁹⁵ For legal professionals who work with children and youth in the child welfare and juvenile justice systems, secondary trauma is a “recurring, occupational hazard.”⁹⁶ It is important for legal professionals to be aware of secondary trauma and to know how to effectively address it.⁹⁷

Secondary trauma is a significant risk for legal professionals who work with traumatized people.⁹⁸ Two studies on secondary trauma among legal professionals conducted in 1990 found a 20% rate of clinically significant depression in surveyed attorneys.⁹⁹ A 2003 study found that attorneys had a higher rate of secondary trauma than mental health and social services workers which correlated with higher caseloads.¹⁰⁰

In 2010, a study on the Wisconsin State Public Defender Office found that 11% of attorneys met the screening criteria for PTSD, 39.5% for depression, 74.8% for functional impairment, 37.4% for burnout, and 34% for secondary trauma.¹⁰¹ The study also found that the number of work hours and the number of traumatized clients correlated to the symptoms of secondary trauma.¹⁰² The study suggests that limiting work hours and rotating the types of cases that attorneys handle may reduce the risk of secondary trauma.¹⁰³ In response to the 2010 study, the Wisconsin State Public Defender Office has resolved to provide its staff with more training and encourage open communication in the office about secondary trauma.¹⁰⁴

org/wp-content/uploads/secondary_traumatic_stress.pdf (defining secondary trauma as “the emotional duress that results when an individual hears about the firsthand trauma experiences of another” and listing possible symptoms).

⁹⁵ See Molvig, *supra* note 94 (noting that “in psychological language,” secondary trauma refers to exposure to someone else’s trauma, like vicarious trauma and compassion fatigue).

⁹⁶ See Jean Koh Peters, *Habit, Story, Delight: Essential Tools for the Public Service Advocate*, 7 WASH. U. J.L. & POL’Y 17, 27 (2001) (noting that secondary trauma is a recurring, occupation hazard because it results from “empathic engagement” with other people).

⁹⁷ See Molvig, *supra* note 94 (stating that secondary trauma is “a lawyer issue”); Inst. Redress & Recovery, *supra* note 70 (explaining that “individuals studying secondary trauma agree that it is important that professionals working with victims of trauma recognize and acknowledge the existence of symptoms associated with secondary trauma” and that “they should be trained in methods for coping with traumatized clients and their own reactions thereto”).

⁹⁸ Andrew P. Levin, *Secondary Trauma and Burnout in Attorneys: Effects of Work With Clients Who Are Victims of Domestic Violence and Abuse*, AM. BAR ASS’N (2008) [hereinafter Levin, *Secondary Trauma and Burnout*], http://www.americanbar.org/newsletter/publications/cdv_eneewsletter_home/expertLevin.html.

⁹⁹ Andrew P. Levin et al., *Secondary Traumatic Stress in Attorneys and Their Administrative Support Staff Working With Trauma-Exposed Clients*, 199 J. NERVOUS & MENTAL DISEASE 946, 946 (2011) [hereinafter Levin et al., *Secondary Traumatic Stress*].

¹⁰⁰ *Id.*

¹⁰¹ *Id.* at 948.

¹⁰² *Id.*

¹⁰³ *Id.* at 953.

¹⁰⁴ Molvig, *supra* note 94.

Judges can also be affected by secondary trauma. A study of 105 judges in criminal, domestic relations, and juvenile courts found that 63% reported one or more long-term secondary trauma symptom.¹⁰⁵

The signs of secondary trauma include intrusive thoughts, avoidance, withdrawal, tension, and disturbed sleep.¹⁰⁶ Other symptoms may include feelings of fear, hopelessness, or rage, changes in memory, and difficulty concentrating.¹⁰⁷ Unaddressed secondary trauma can cause a number of problems for the individual and the workplace as a whole. Secondary trauma can negatively impact the individual's ability to make decisions, to listen effectively, and to maintain appropriate boundaries.¹⁰⁸ Secondary trauma can also cause the individual to withdraw emotionally from the client and to avoid moving forward with the case.¹⁰⁹ This is particularly harmful to traumatized children and youth who need their attorneys to advocate for appropriate placements and services in a timely manner.¹¹⁰ The workplace as a whole may experience poor work performance, low morale, increased interpersonal conflicts, and high turnover rates if secondary trauma is not addressed.¹¹¹

In order to successfully address secondary trauma, legal professionals must be aware that it exists and that it is a problem. Trainings can provide professionals with important information about secondary trauma and how to prevent and/or mitigate it.¹¹² Law school classes and clinics are also an effective way to raise awareness of secondary trauma.¹¹³ The George Washington University National Law Center's Domestic Violence Advocacy Project, for example, teaches law students about the psychology associated with representing traumatized clients in addition to traditional legal instruction.¹¹⁴ The Katherine and George Alexander Community Law Center at Santa Clara University offers a class for law students on techniques for representing traumatized clients and teaches students about secondary trauma and self-care.¹¹⁵

¹⁰⁵ Peter G. Jaffe et al., *Vicarious Trauma in Judges: The Personal Challenge of Dispensing Justice*, JUV. & FAM. CT. J., Fall 2003, at 1, 3-4, available at <http://www.thegreenbook.info/summit/documents/ressup2.pdf>.

¹⁰⁶ Levin et al., *Secondary Traumatic Stress*, *supra* note 99, at 946.

¹⁰⁷ Inst. Redress & Recovery, *supra* note 70.

¹⁰⁸ *Id.*

¹⁰⁹ Lisa Pilnik, *Helping Can Hurt: Steps Professionals Can Take to Prevent Secondary Traumatic Stress*, YOUTH TODAY, June-July 2013, at 6, 7.

¹¹⁰ *Id.*

¹¹¹ Dawn J. Post, *Identifying and Addressing Compassion Fatigue and Secondary Trauma in the Legal Services Workplace*, MGMT. INFO. EXCHANGE J. (SPECIAL FEATURE), Summer 2011, at 23, available at <http://www.clcny.org/wp-content/uploads/2011/11/article-identifying-and-addressing-compassion-fatigue-and-secondary-trauma-in-the-legal-services.pdf>.

¹¹² See TINA M. MATTISON, VICARIOUS TRAUMA: THE SILENT STRESSOR 31 (Nat'l Ctr. for State Courts 2012), available at <http://www.ncsc.org/~media/Files/PDF/Education%20and%20Careers/CEDP%20Papers/2012/Vicarious%20Trauma.ashx> (recommending that the California state court system provide its staff with training on secondary trauma).

¹¹³ Joan S. Meier, *Notes From the Underground: Integrating Psychological and Legal Perspectives on Domestic Violence in Theory and Practice*, 21 HOFSTRA L. REV. 1295, 1355 (1993).

¹¹⁴ *Id.* at 1299.

¹¹⁵ Inst. Redress & Recovery, *supra* note 70.

Engaging in self-care is essential to handling secondary trauma in a positive way. Daily self-care can include visualization, breathing, and relaxation techniques.¹¹⁶ Taking a lunch break, interacting with co-workers, having a peer support group, and developing a non-trauma related area of professional interest are also effective self-care methods.¹¹⁷ Long-term self-care involves recognizing when secondary trauma is having a negative impact and reaching out for support.¹¹⁸ Maintaining a healthy life-work balance and enjoying time outside of work with family and friends is another aspect of self-care.¹¹⁹

A community of support in the legal and judicial workplace is an important element for addressing secondary trauma. Administrators, managers, and supervisors should educate themselves about secondary trauma and endeavor to create an on-going dialogue about the problems secondary trauma can cause.¹²⁰ Retreats are a good vehicle for starting a discussion about secondary trauma.¹²¹ Consultation with a mental health professional can also be an effective way to develop strategies for coping with secondary trauma and its effects.¹²²

Conclusion

Trauma is a prevalent and serious problem for children and youth in the child welfare and juvenile justice systems and the ABA urges the legal profession to effectively address its incidence and effects. Trauma-informed systems of care recognize the issue of children's trauma and seek to mitigate it through evidence-based practices. It is crucial for lawyers and judges who work with children and youth to be aware of trauma and trauma-informed practices. Law school clinics, continuing legal education programs and training, trauma-informed court initiatives, child welfare and juvenile justice initiatives, and cross-systems collaborations are promising approaches to raising awareness about trauma and its impact on children and youth. A trauma-informed approach should also include awareness of secondary trauma and its impact on attorneys and judges who interact with traumatized children and youth.

¹¹⁶ Maxine Sushelsky, *Secondary Trauma and Burnout in Lawyers and What to Do About It*, LAWYERS JOURNAL (Dec. 2011), <http://www.massbar.org/publications/lawyers-journal/2011/december/secondary-trauma-and-burnout-in-lawyers-and-what-to-do-about-it->.

¹¹⁷ Post, *supra* note 111, at 23.

¹¹⁸ Ann E. Freedman, *Fact-Finding in Civil Domestic Violence Cases: Secondary Traumatic Stress and the Need for Compassionate Witnesses*, 11 AM. U. J. GENDER SOC. POL'Y & L. 567, 624 (2003).

¹¹⁹ Sushelsky, *supra* note 116.

¹²⁰ Post, *supra* note 111, at 23.

¹²¹ *Id.*

¹²² Levin, *Secondary Trauma and Burnout*, *supra* note 98.