A teen client tells you she thinks her school problems are due to how tired she is. No matter what she does, she has trouble falling asleep. When she does fall asleep, she often wakes up and can’t go back to sleep. She has gained weight and is always hungry. Her foster mother reports she is smoking marijuana and that is making her hungry. Your client admits to smoking pot occasionally to help her fall asleep. She doesn’t think it has anything to do with why she is doing poorly in school.

All of these health issues may actually be related to the client’s history of trauma exposure. Your client’s mother has long battled bipolar disorder and opiate addiction, and your client has had multiple placements in out-of-home care. Issues that have led to placement in the past include neglect, domestic violence exposure (her mother had to be hospitalized due to injury from her boyfriend when your client was eight), and sexual abuse by the mother’s boyfriend when your client was 11. Your client has been truant for most of the school year and was recently placed in foster care again for neglect.

This scenario is common for children in protective custody or juvenile detention and highlights how the adversities children experience can impact their health and well-being in ways that may require your attention and response. Understanding how the body and health can be impacted by trauma will help you recognize when child clients have been medically affected by trauma and how you can best advocate for them.

Stress and Brain Development
All children are exposed to stressors, traumas that can be considered in a spectrum. Many stressors are positive like final exams or baseball playoffs that help children learn and grow.

Other stressors, like the death of a grandparent or house fire are more disruptive to a child, but with support from family and friends, don’t necessarily cause lasting injury. Stressors that are severe, prolonged, and especially those impacting a child’s social-emotional support system, can be the most damaging to children. Parental mental illness or drug abuse, child physical abuse or neglect, or exposure to domestic violence can all lead to significant responses by the child’s body and brain. These are toxic stressors, or traumatic stressors.

Children are impacted by trauma differently than adults because the brain is actively developing. While we are born with the neurons and potential to develop, actual neurological development is shaped by our environment.

Medical Effects of Trauma: A Guide for Lawyers
by Heather Forkey

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by Heather Forkey

Understanding Trauma and its Impact on Child Clients, Sept. 2014
Establishing a Trauma-Informed Lawyer-Client Relationship (Pt. 1), Oct. 2014
Communicating with Youth Who Have Experienced Trauma (Pt. 2), Nov. 2014
Supporting the Mental Health of Trauma-Exposed Children in the Child Welfare System, Jan. 2015
Using Screening and Assessment Evidence of Trauma in Child Welfare Cases, May 2015
Medical Effects of Trauma: A Guide for Lawyers, July 2015

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Katherine Gomez: Parent Advocate & System Reformer

Internet: http://www.childlawpractice.org
SUPREME COURT NEWS

Admitting Three Year Old’s Statements to Teachers Did Not Violate Confrontation Clause

Trial court in a criminal abuse case properly admitted child’s statements regarding abuse by his teachers. Several factors pointed toward the primary purpose of the questioning not being intended as a substitute for trial testimony, including the child’s young age, the relationship between him and his teachers, and the fact that they were trying to determine if there was an imminent threat to his safety.

In this case, the child’s statements were not primarily for the purpose of creating evidence to prosecute a case against the defendant.

Preschool staff noticed bruises and whip marks on a three-year-old child. He identified his mother’s boyfriend as causing them. The next day, a social worker examined him and found more marks. The social worker also found his younger sister was being physically abused.

At trial on criminal abuse allegations, the statements of the child’s teachers relating what the child said about his abuse were introduced. The child did not testify. The trial court denied the defendant’s motion to exclude the statements under the Sixth Amendment. The jury convicted the defendant on several counts and sentenced him to 28 years imprisonment.

The Ohio Court of Appeals reversed. The Court also found it was also significant that the child was among very young children whose testimony would rarely implicate the Confrontation Clause. It would be rare for a three year old to intend his statements to be used as a substitute for live testimony.

The Court also found it was also significant that the child was talking to his teachers. While individuals other than law enforcement can act in a similar role and be subject to Confrontation Clause concerns, here the teachers were not focused on prosecuting criminal behavior. Mandatory reporting obligations do not change this fact. While it is true that teachers’ duty to report abuse might lead to a prosecution that does not change the main purpose a teacher has to protect a child.

The conversation was informal and spontaneous. The lack of formality tends toward it being less likely to command oath-like responses.

Further at the age of three, the child was among very young children whose testimony would rarely implicate the Confrontation Clause. It would be rare for a three year old to intend his statements to be used as a substitute for live testimony.

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CASE LAW UPDATE

Private School Could Be Negligent for Lack of Abuse Prevention Policy

Hecksher v. Fairwinds Baptist Church, 2015 WL 2415121 (Del.).

Trial court improperly awarded summary judgment where private school lacked sex abuse prevention policy and failed to report alleged abuse. Knowledge of abuse by wife of alleged perpetrator, also a school employee, could not be blocked from being imputed to school because there was no evidence she was acting solely in her role as a spouse in failing to report.

This case was brought on a claim that a private school violated the state Child Victim’s Act (the Act). A child alleged the school was grossly negligent in failing to prevent her teacher/foster father’s abuse. She contended that his wife, also a school employee, observed the abuse on school property and failed to report it. She also alleged the school was grossly negligent in not having a sexual abuse prevention policy.

When she attended Fairwinds, her foster father was a math, Spanish, and bible teacher; her foster mother was a secretary; and her foster aunt was a kindergarten teacher. She had been placed with them by her mother when she was 12 years old and her mother was struggling with substance abuse. She alleged that her teacher/foster father started sexually abusing her when she was 13, offering her extra credit for sex acts in classes she was having difficulty with. The child also alleged that the principal was sexually abusing another student, but discovery was not permitted on that matter.

Regarding knowledge of the abuse, the child testified during a deposition that the foster mother/employee had confronted her husband once about a letter the child had written imploring him to stop abusing her. She also testified that her foster mother had seen her being raped at home and at the school.

She also testified that other staff had witnessed red flags, including her foster foster/teacher slapping her on the butt in school. Other evidence was submitted that two other students complained about the teacher’s behavior; one that he rubbed her butt and another of an inappropriate innuendo, over which that child changed schools. The pastor and principal admitted they had counseled the teacher after these incidents. Several other students reported inappropriate sexualized comments, which were received via deposition or affidavits.

The superior court granted summary judgment in favor of the school. It found that the child had failed to prove that anyone other than the perpetrator’s wife knew of the abuse and that she had failed to inform the school because of loyalty to her husband and thus was acting outside the scope of her employment.

The Delaware Supreme Court disagreed and overturned the order. Taking the facts at the summary judgment stage in the most favorable light to the plaintiff, the trial court assumed that the wife knew about the abuse but concluded her knowledge could not be imputed to the school due to her dual role as wife to the perpetrator.

Whether the wife was motivated by her personal or professional role was an issue for the jury to decide. There was not clear evidence that the wife was acting solely for personal reasons when she failed to report the abuse. She witnessed abuse at school when she was acting as an employee. Though she denied having knowledge, she did state in response to a hypothet-
Alaska


**TERMINATION OF PARENTAL RIGHTS, FAILURE TO IMPROVE**

Child welfare agency made reasonable efforts to reunite mother with children without success, and terminating mother’s parental rights was in children’s best interests. Mother did not adequately address behaviors that placed children at risk of harm and allowed registered sex offender to supervise them. Psychologist who evaluated mother identified mother’s lack of insight into her role in causing harm to children, and her continuing behavioral problems indicated children would not do well in her care.

California


Juvenile court order changing eight-year-old disabled child’s permanent plan to adoption four years after parental rights were terminated was not appealable even though juvenile court did not expressly advise parties they had to challenge order by writ petition. However, court elected to treat appeal as writ petition because extraordinary circumstances required that underlying issues advocated by child’s guardian ad litem receive review.

Illinois

*In re S.W.*, 2015 WL 3385688 (Ill. App. Ct.). **TERMINATION OF PARENTAL RIGHTS, LEGAL REPRESENTATION**

Court acted within its discretion in denying mother’s requests for continuance of unfitness and best interests hearings in termination of parental rights proceeding. Mother was appointed and later fired four court-appointed attorneys. Court continued trial twice to allow fourth court-appointed attorney time to prepare and schedule best interests hearing to accommodate mother’s schedule.

Maryland


In changing permanency plan for 19-year-old intellectually disabled youth from reunification with his mother to another planned permanent living arrangement (APPLA), court could consider youth’s preference not to move to jurisdiction where mother lived. Although youth had cognitive and verbal deficits, court-appointed special advocate stated he could express his emotions and thoughts, and case history revealed a consistent, long-standing pattern of distress during and after unsupervised visits with mother.

Missouri

*Ren o v. Ren o*, 2015 WL 3372159 (Mo. Ct. App.). **CUSTODY, LEGAL REPRESENTATION**

After mother filed notice in post-dissolution proceedings that she intended to move to another state with parties’ two minor children, father sought order preventing relocation and moved for appointment of guardian ad litem (GAL). Father did not show evidence of child abuse or neglect was presented at trial, and thus appointment of GAL was not statutorily required.

Montana

*In re A.D.L.*, 2015 WL 3385868 (Mont.). **DEPENDENCY, AGGRAVATED CIRCUMSTANCES**

In termination of parental rights proceeding, finding that mother subjected children to aggravated circumstances of chronic abuse and neglect was supported by clear and convincing evidence. Children experienced unsanitary home conditions, physical abuse, violence between the parents, neglect of their physical, educational, and mental needs, and exposure to methamphetamine and drug paraphernalia. Despite numerous inpatient and outpatient treatment programs and multiple services, mother was unable to provide safe and stable home for children.

Nevada


Mother of child adjudicated dependent claimed guardianship precluded neglect finding. Mother was civilly committed under doctor’s care with diagnosis of schizoaffective disorder and alcohol dependence. Establishment of guardianship over child did not preclude neglect finding because guardianship did not relieve mother of duty to provide for child’s care. Court properly sustained neglect petition based on mother’s inability to provide proper care for child.

New Jersey


Evidence was insufficient to find mother’s alcohol use caused her to neglect three-year-old son although she left him in dirty diaper and unsupervised in separate room with apartment door open after night of drinking. Mother was not diagnosed with alcohol-related disorder and received no recommendation for follow-up care after substance abuse evaluation. Agency failed to prove that mother neglected son because he was not injured and conduct did not rise to level of gross negligence or reckless disregard for child’s safety.

New York


Evidence supported finding that mother with untreated mental illness neglected child. Although mother and child lived in apartment with broken windows and no working gas, mother refused access to landlord or energy company to make repairs and restore gas. Mother’s mental condition rendered her unable to provide child with adequate supervision, result-
ing in conditions that caused child to be depressed, anxious, and angry.

Father did not place three-week-old baby in actual or imminent danger of impairment, as required for finding of neglect, when he forcibly took child out of stroller and away from mother after an argument and traveled with baby on public transportation to his home. Although father exhibited undesirable parental behavior, baby was not injured during event.

North Dakota
In re J.A.H., 2015 WL 5454203 (N.D.). DEPENDENCY, COURT ORDERS
Juvenile court took notice of petition, affidavit in support, and guardian ad litem report as basis for placing children in custody of child welfare agency, and mother appealed. Court’s order included only general and conclusory findings and therefore precluded meaningful review. Case was remanded for juvenile court to make specific findings and explain bases for finding children dependent.

Oklahoma
In re T.T.S., 2015 WL 3561526 (Okla.). TERMINATION OF PARENTAL RIGHTS, JURY TRIALS
Petition to terminate mother’s parental rights alleged she failed to provide appropriate parental care and placed child in threat of harm due to her drug abuse. Mother appealed based on failure to provide jurors with legally correct instructions and verdict forms. Court found the petition, jury instructions, verdict forms, and final order must include specific conditions parent failed to correct.

Rhode Island
In re Kristopher J., 2015 WL 3413321 (R.I.). TERMINATION OF PARENTAL RIGHTS, PHYSICAL ABUSE
Clear and convincing evidence supported finding that father was responsible for fatal injuries to child’s infant sibling, thus supporting termination of father’s parental rights based on conduct toward child of cruel or abusive nature. Father was sole and primary caretaker on evening when infant’s fatal injuries were inflicted, and father was living and sleeping in same room as infant before hospitalization.

In re Max M., 2015 WL 3511901 (R.I.). TERMINATION OF PARENTAL RIGHTS, REASONABLE EFFORTS
Court upheld termination of father’s parental rights based on evidence establishing he was unfit to parent son and child welfare agency’s reasonable reunification efforts. Father consistently refused to participate in recommended programs, including parenting programs, because he “did that” while in prison. He admitted he did not plan to be son’s primary caretaker, had inconsistent and infrequent visits with son, failed to support his son emotionally or financially, and had an overall lack of interest in son.

South Dakota
In re J.P.H., 2015 WL 3623585 (S.D.). CUSTODY, BEST INTERESTS
Mother who had full custody of son filed request to change his surname to hyphenated name. Parents were divorced and mother later remarried, took new husband’s last name, and had another child. Son began to question standing in family and became distraught because he did not have same last name as sister or mother. Court found it was in child’s best interest to change surname to combination of mother’s and father’s last names.

Utah
In re B.K., 2015 WL 3505323 (Utah Ct. App.). TERMINATION OF PARENTAL RIGHTS, ABANDONMENT
Sufficient evidence established that father abandoned two minor children and supported termination of his parental rights. Father failed to communicate with children for long intervals at multiple times in children’s lives. While incarcerated, he was able to send letters or make phone calls but did not. Despite his argument that limitations of mother’s protective order against him prevented contact with children, mother had been ordered to cooperate with visitation and he had exercised that visitation before entering prison while protective order was in place.

In re CDR, 2015 WL 3440309 (Wyo.). DEPENDENCY, EDUCATION
Educational neglect case alleged 12-year-old boy’s parents failed or refused to attend to his educational needs and well-being. Court revoked consent decree due to alleged violation of terms and conditions by mother. Disposition order required parents to participate in alcohol treatment and long-term success for child might be unattainable if mother was not required to address drinking problem. Court did not lose jurisdiction after finding child’s educational concerns appeared to have been addressed.

FEDERAL CASES

D.C. Circuit
Defendant convicted of sexual abuse of his stepdaughter failed to satisfy rule of criminal procedure about disclosure of expert opinions. Disclosure failed to provide government with necessary details of expert’s opinion about likelihood of penetration injury and why expert might advance such opinion. Trial court acted within its discretion in excluding expert’s testimony as sanction for deficient disclosure, and exclusion did not violate Sixth Amendment.
When to seek health care for a client exposed to trauma

Exposures:

Prenatal
- Alcohol, opiate, or other drug exposure in utero
- Parental exposure to HIV, Hepatitis C, tuberculosis, syphilis

Environmental
- Lead
- Cigarette smoke
- Unsecured drugs, weapons

Challenges with Body Functions
- Sleep difficulty
- Toileting issues
- Overeating/Undereating

Physical Concerns
- Frequent infections
- Asthma flares
- Overweight/Obesity
- Somatic complaints

Behavior and Learning
- Developmental delays
- Academic challenges or failure
- Executive function problems
- Impulsive or aggressive behavior
- Depression

(Cont’d from front page)

environment. After birth, nerve cells in the brain move and make connections with other nerve cells. Those connections are reinforced and strengthened and then sheathed with myelin to make the connections smooth and automatic. We are all familiar with how this looks for children living within healthy family relationships:

- To teach a child to self-regulate, parents respond to a baby’s cry with soothing voices, food, changing diapers, and supportive swaddling. Thus a child learns over time that if they make some noise, their needs will predictably be met, and they can soothe themselves with parent support.

- To teach a child language, a parent coos back to an infant, assigns words to what a child points to and speaks and explains the world to a child each day, expanding vocabulary over time.

If a child is living in an unhealthy family environment, the child is exposed to very different stimuli of violence, fear, abuse, or neglect.

- In a home with a parent incapacitated by drug addiction, a baby’s cries may go unaddressed, be met with anger, yelling, or abuse, or with food, consoling and care. This child learns that the world is unpredictable and often harsh, and that they can’t reliably impact their environment. Consequently the infant will have difficulty learning to regulate themselves and their own behavior.

- In a home where a parent is depressed, cooing may not be met with interaction but with a blank stare, a parent will be unable to provide words for what a child points to, and few words will be spoken in the home, leaving the child with little expectation for interaction with others and a paucity of language skills.

Practice tips:

- If your client shows physical symptoms consistent with a history of trauma, request a medical screening and assessment to ensure she receives any indicated treatment. This will include a medical exam to check for physical findings consistent with abuse, injury, or in-utero exposure, developmental screening, and mental health screening. Be sure to notify the medical provider of the trauma history.

An evaluation by a child mental health professional with expertise in trauma-informed care can assist with identifying and matching children and families who will benefit from specific trauma-informed mental health interventions.

For children living in adversity, the nerve connections in the brain are appropriate to the environment, protect them from that danger, and allow them to adapt to the setting in which they must survive. Those safety responses are natural and automatic.

Effect of trauma on body functions

Our bodies were designed to live in the wilderness and thus our body systems are prepared to deal with predators like lions and tigers. If you have a client who has experienced trauma or toxic stress, you may hear they are having physical symptoms that would be appropriate if fleeing or fighting a tiger. Parents or caregivers may complain that a child’s eating, sleeping or toileting are off. These are predictable responses when trying to stay safe from a predator.

- Sleep is impacted because the fear hormones tell the brain it is unsafe to fall or stay asleep.

- Over eating may occur because the body thinks it is constantly running from a tiger, and has switched off the feeling of fullness (satiety center) so the child can take in enough calories to keep running.

- Toileting is impacted when the brain won’t let the body relax the way it needs to for normal bowel health.

Practice tips:

- Having your client see the pediatrician may help. If the caregiver can explain to the physician that the child has been exposed to toxic stressors, the physician may be able to recommend relaxation techniques or, if necessary, medications to help the child with sleeping or toileting. Child yoga or mindfulness training can help children deal with these issues as well.

Effect of trauma on physical health

Toxic stress can also impact physical health. You may find your client’s health seems to worsen as stressors mount. Asthma may flare around court
dates, or the child may not feel well or get sick right after you have discussed placement or permanency issues. This too has a biologic basis.

Inflammation/compromised immune system. Remembering that the body responds to stress hormones as if it is dealing with a predator, it is not surprising that the body turns up the inflammation response with early life stress. Stress hormones tell the body it may soon have to deal with an injury or animal bite. This inflammatory process can also lead to lung inflammation and asthma symptoms. Evidence shows that prolonged stress also inhibits the body’s ability to fight infections. This means some children may be more likely to get the flu or colds when they are otherwise stressed. In the long term, these responses can put your client at increased risk for other health disorders. Obesity, type II diabetes, increased cardiovascular and cancer risks all are associated with this prolonged inflammatory response.

Practice tips:
- Remind clients with asthma that the stress of court really can make them sicker, and that they should remember to take their prevention and treatment asthma medications around court dates and other stressful times.
- Ensure clients follow up with their physician if the symptoms get especially severe.
- Advocating for your client should include making sure the child or teen has quality health care to monitor for symptoms associated with inflammatory response: obesity, type II diabetes, cardiovascular and cancer risk.

Somatic symptoms. You may have a client cancel due to headaches or stomach aches each time you try to schedule meetings to discuss their case. That may be due to the client’s stress response. Stress hormones can cause the “sickness syndrome.” At times of stress from a predator, it is safer if a person feels sick and just stays hidden in bed instead of going out to face the predators. Somatic symptoms are a real response to stress, ones which can be protective in the wilderness, but that can make scheduling appointments frustrating.

Practice tips:
- Clients with somatic symptoms may benefit from learning relaxation techniques, using guided meditation or identifying distraction tools.
  - Have a child put a stuffed animal on his stomach and watch the toy go up and down as the child controls deep breathing.
  - Have the child close eyes and have the child’s caregiver

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guide the child to think about each part of their body (starting with toenails and working up to eyeballs and hair) and try to relax each body part in turn.

- Have the child make a music mix of the songs that relax them most to keep on their handheld device, and play when they start to feel unwell.

- If you are comfortable teaching the child basic stretches or yoga poses, they can be useful if the child is feeling anxious or upset.

**Drug/Alcohol exposure.** The issues families struggle with that are traumatic stressors for children (parental mental health problems, parental substance abuse) may also directly affect the health of your clients. Some parents dealing with mental health concerns may use illicit drugs or alcohol to self-medicate.

   - **Alcohol** is one of the most common exposures in utero, and the minimum amount that causes toxicity is unknown. Exposure to alcohol very early in the child’s gestation can impact development of facial features, leading to “fetal alcohol syndrome.” With binge drinking, a child can be exposed to significant amounts of alcohol after facial features are formed. This can still result in neurologic and developmental effects, but these may be harder to attribute to alcohol without careful evaluation by a genetics or developmental specialist familiar with fetal alcohol spectrum disorders.

   - **Opiate exposure** (heroin, methadone, OxyContin, etc.) leads to predictable symptoms in a newborn, but less well-documented impacts on development and learning as children grow.

   - **Drug effects.** Similarly, cocaine, nicotine, antidepressant medication, anti-seizure medication, and sedatives all can have long-term impacts on childhood development and learning.

**Practice tips:**

- If you suspect or if health records show your client has had in utero exposure to drugs or alcohol, have a medical provider with experience in child development evaluate the client. The result may show the child is eligible for educational supports and/or more extensive benefits.

**Infections/environmental exposures.** The child’s exposures in utero may include exposure to infections, including Hepatitis C, HIV, and syphilis. Environmental exposures, including unsafe housing, lead paint, unsecured drugs, and secondhand smoke, can cause further injury.

**Practice tips:**

- Refer children for medical care when they have missed routine health care appointments.

- Make sure the pediatrician knows why a child has missed appointments (parental issues, having moved for foster care, care provided elsewhere).

- If you have access to information from the school nurse, other medical providers such as emergency department or interim

### Symptoms Findings Common to Children with Exposure to Trauma

<table>
<thead>
<tr>
<th>Function</th>
<th>Central cause</th>
<th>Symptom</th>
</tr>
</thead>
</table>
| Sleep    | Stimulation of brain’s wakefulness center | 1. Difficulty falling asleep  
|          |               | 2. Difficulty staying asleep  
|          |               | 3. Nightmares                              |
| Eating   | Inhibition of brain center to recognize fullness, anxiety | 1. Rapid eating  
|          |               | 2. Lack of satiety                         |
| Toileting| Increased stress hormones and inhibition of relaxation systems | 1. Constipation  
|          |               | 2. Stooling accidents                       |
|          |               | 3. Wetting the bed                          |
 doctors used while a child was in foster placement, make sure the child’s regular pediatrician gets this information.

- If the child does not have a regular pediatrician, reinforce with the family how important it is for continuity of care with a pediatrician to be established.
- Notify the pediatrician of exposures you know the child has had in the home and specific health concerns.

Effect of trauma on behavior and learning

It may be that the concerns you notice have more to do with a client’s attention or learning. Exposure to toxic stress affects children’s brains and bodies. Again, it is worth considering that the body under stress is preparing to deal with predator attack. Many children who have been exposed to the ongoing traumas of neglect, domestic violence, or abuse respond appropriately to these threatening home situations with increased aggression, hypervigilance, and exaggerated responses to small stimuli. In a setting where the child or their loved ones are in danger or their needs are not being met by a caregiver, the ability to remain alert to threat and respond quickly and aggressively does, in fact, protect the body.

Unfortunately, because the stress response in these children is chronically stimulated, the body loses the ability to distinguish threatening situations from nonthreatening ones. Because the child’s brain is just developing and making connections, how the body responds to trauma becomes an ingrained response. Dr. Bruce Perry has coined the phrase, “states become traits.” When these behaviors are noted outside the context of the trauma, they may appear maladaptive, yet they would be considered an appropriate response in the context of the trauma itself. Thus, when these children show their hypervigilance and aggression in school or foster placements in response to minor stimuli, they can be misidentified as having Attention Deficit Hyperactivity Disorder (ADHD), Oppositional Defiant Disorder, or conduct disorder.

**Practice tips:**

- Ensure the child is screened and assessed for trauma exposure and receives any indicated mental health treatment.
- Be sure the pediatrician or mental health provider doing screenings or testing for behavioral health knows the child has a trauma history that may be impacting behavior.
- Make sure any child prescribed medication for a mental health issue has routine follow up with a pediatrician and/or mental health provider familiar with trauma and how it presents.
- Make sure the medical and/or mental health provider has information from day care and school about the child’s functioning and performance.

*Limited executive function.* Children may also look like they have ADHD or another behavioral diagnosis because exposure to trauma limits developing executive function. Executive function, which is made up of working memory, inhibitory control, and cognitive flexibility, is required to learn, function in social settings, and stay focused. These skills develop through practices and are strengthened by experiences. They largely develop in the prefrontal cortex and hippocampus areas of the brain, the areas inhibited by the stress hormones released when children experience trauma.

In toddlers this impacts the ability to develop language skills, motor skills, social skills, and impulse control. In older children, inhibited executive function presents as learning problems, behavioral difficulties in the school setting, and organizational deficits. In fact, many children can wind up with a diagnosis of ADHD when, in fact, the impulsivity and poor attention that lead to the ADHD diagnosis actually reflect inhibition of the executive function (see chart).

**Practice tip:**

- If you are aware that your client who has ADHD or another mental health diagnosis has had a history of trauma, bring this overlap in symptoms to the attention of caregivers, educators, and mental health professionals who also care for the client, as allowed by ethics considerations.

**Conclusion**

Children’s lawyers are well positioned to help guide children and families dealing with trauma. Vigilance on your part, including childhood adversity and toxic stress when considering health and behavior issues, and understanding the different ways trauma presents will help you recognize harmful experiences and their impact. The danger of failing to recognize adversity and the physiologic response as a possible cause of health and behavior concerns is missing or misattributing symptoms to other causes. By recognizing the impact of negative family experiences on child health and development, you can engage community health providers to address these needs effectively. Your guidance can help children understand that, while bad things may have happened to them, their responses are expected and manageable. In this context, the child and family can work toward health, wellness, and achieving the child’s potential.

Heather Forkey, MD, is chief of the Child Protection Program and clinical director for the Foster Children Evaluation Program at the University of Massachusetts Children’s Medical Center and associate professor at the UMass School of Medicine. In addition to her clinical work with children exposed to abuse and neglect, foster care, and trauma, Dr. Forkey has received local and federal grants to address issues involving children in foster care and translate promising practices to address physical and

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Research in Brief

Family Income, Parental Education Related to Brain Structure in Children and Adolescents

Characterizing associations between socioeconomic factors and children’s brain development, a team including investigators from nine universities across the country reports correlative links between family income and brain structure. Relationships between the brain and family income were strongest in the lowest end of the economic range — suggesting that interventional policies aimed at these children may have the largest societal impact. The study, led by researchers at The Saban Research Institute of Children’s Hospital Los Angeles and Columbia University Medical Center, was published in online edition of the journal Nature Neuroscience on March 30, 2015.

"...among children from the lowest-income families, small differences in income were associated with relatively large differences in surface area in a number of regions of the brain associated with skills important for academic success..."
Women Who Petition for Restraining Orders Against Abusers Typically See Decreased Earnings

“Why doesn’t she just leave?” is a timeworn question about women trapped in relationships with men who physically and/or emotionally abuse them. Economic dependence is clearly part of the story—many women lack the financial means to leave and find themselves trapped by both poverty and abuse.

One way women can protect themselves and their children from abuse, harassment, threats, or intimidation is to petition a judge for a civil restraining order, also called a Protection From Abuse (PFA) order. Research shows that PFAs can promote women’s safety and help women manage the threat of abuse. Moreover, in the type of virtuous cycle policymakers hope to jump-start through PFAs, increased safety at home should promote women’s economic independence through employment.

However, a new study by two University of Pittsburgh sociologists shows that turning to the courts may carry a considerable price.

Professor of Sociology Lisa Brush and Associate Professor of Sociology Melanie Hughes, both of the Kenneth P. Dietrich School of Arts and Sciences at the University of Pittsburgh, have co-authored “The Price of Protection: A Trajectory Analysis of Civil Remedies for Abuse and Women’s Earnings,” which appears in the American Sociological Review.

The study reports findings from their analysis of changes in women’s earnings before and after they petition the courts for a restraining order. Although one might theorize that such an order would clear the way for women to increase their work hours, seek higher-paying work, or otherwise increase their earnings, Brush and Hughes found overwhelming evidence that the period around the time they are petitioning is accompanied by serious financial instability, vulnerability, and hardship for women. In fact, the researchers estimate that women lose anywhere between $312 and $1,018 dollars in the year after petitioning and further analysis indicates the women are not recouping these losses later.

The study is the first to assess what happens to women’s earnings before and after petitioning for a restraining order.

The researchers studied records of 3,923 women in Allegheny County who had reported any earnings between January 1995 and December 2000 and who had petitioned for a PFA order between January 1996 and December 1999. They looked for changes in earnings growth before and after petitioning. They also took into account whether the women were on welfare prior to or after petitioning, and whether they secured just the initial PFA of usually 10 days or were also granted a hearing, a necessary step for a long-term restraining order. (In Allegheny County, Pennsylvania, judges can grant petitioners a temporary 10-day restraining order and then a longer 12-to-18-month renewable order.)

“We cannot offer women a restraining order as a tool to stop abuse and then walk away. We need to offer women other forms of support, especially economic ones, during this unstable time.”

“Our study convincingly shows that women’s petitioning for a PFA does not come with either short- or long-term increases in earnings growth,” said Hughes. “We cannot offer women a restraining order as a tool to stop abuse and then walk away. We need to offer women other forms of support, especially economic ones, during this unstable time.”

“The study is significant,” adds Brush, “because it starkly demonstrates the inadequacy of the three mechanisms—work, welfare, and protective orders—that we expect women to use to escape from abusive relationships. Sometimes, a woman can’t afford to ‘just leave.’ Sometimes, a protective order is just a piece of paper. Sometimes, abusers sabotage women’s employment, run up their bills, or take their paychecks. And sometimes, the turmoil of abuse and the petitioning process causes not just a short-term shock but a decline in earnings that takes years to make up.”

The researchers say their study is just a first step toward unpacking the costs of women’s efforts to end abuse. They say the economic losses women experience when petitioning for a PFA is a call out to researchers, advocates, and policymakers to develop strategies to enhance women’s safety, solvency, and economic stability.

ABA Center on Children and the Law Summer Conferences

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Optional preconference (July 21): Trial Skills for Parents’ Attorneys

Optional preconference (July 23): Kinship Care

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The interventions established through Kids in School Rule! (KISR!) give students in foster care the tools and supports to succeed and have positive experiences in school. KISR! was created in 2008 to address common challenges students in care face and provide them with stable school environments. The program now serves children in custody of Hamilton County who attend any of the 56 Cincinnati Public Schools. It offers a model for how schools, courts, child welfare agencies, and legal advocates can work together to address common education barriers for children in foster care.

Results
The program’s statistics are impressive. For the 2013-14 school year:

■ 100% of KISR! third graders were reading at grade level compared to 97.1% district-wide,

■ 91% of eligible KISR! seniors graduated from high school in 2014 compared to 73.6% district-wide,

■ 83% of KISR! students attended 90% or more days of school, and

■ disciplinary referrals for KISR! students decreased by 50%.

Secrets to Success
Partnerships
The success of KISR! depends on effective partnerships between Cincinnati Public Schools, Hamilton County Department of Jobs and Family Services, Hamilton County Juvenile Court, and the Legal Aid Society of Greater Cincinnati. Each partner brings different strengths to the collaboration, but collectively they support students in foster care by:

■ helping them navigate the education system,

■ highlighting the importance of education for children in the child welfare system,

. . . a model for how schools, courts, child welfare agencies, and legal advocates can work together to address common education barriers for children in foster care.

■ having an identified liaison in each school and dedicated education specialists to coordinate with the county children’s services, and

■ providing education advocacy in court and in schools.

Strong communication among the partners, and leadership within each entity, result in comprehensive support and strategies that combat education issues faced by children in foster care.

Six Goals
Through the four partners, KISR! increases educational opportunities by focusing on six goals:

■ Increasing school stability—promotes keeping children in the same schools when foster placements change.

■ Improving academic achievement—improves students’ academic progress and fosters a love for learning.

■ Enhancing school engagement—creates a connection between the students and the school; expands the interests of students to extracurricular activities.

■ Reducing school removals due to school discipline or changing homes—decreases unnecessary breaks in learning; helps contribute to a cohesive educational experience.

■ Aiding coordination between partners, including integrated data sharing—allows for efficient communication between the most essential stakeholders in each child’s education.

■ Improving direct communication about individual students—helps quickly address and solve issues on a personalized basis.

Program Leadership and Staff
To reach the six goals, KISR! is guided by a group of leaders from the four partners. These professionals comprise the KISR! Leadership Team and hold one another accountable for executing the program. KISR! liaisons are identified at every KISR! school to communicate regularly with their students. Liaisons ensure appropriate communication takes place to support the academic needs of each KISR! student. Two Hamilton County Department of Job and Family Services (JFS) KISR! education specialists work with the liaisons to promote school stability and problem-solve for each student. They help with enrollment and

One of our 11th grade KISR! students has made significant progress in the past two years. He had a history of behavior issues and academic problems, but then set a goal for last quarter of straight A’s—and achieved it! The various KISR! supports in combination with efforts by his foster parent have made a huge difference.”

—KISR! CPS Liaison, School Psychologist

“Kids in School Rule! Improving School Outcomes for Students in Care
by Morgan Tyler

LEARNING CURVES
communicate with the school liaisons and other school leaders about the needs of these students.

**Information-sharing Tools**

To improve communication and data sharing between the partners, KISR! uses two tools:

- **Learning Partnership Dashboard (LPD).** This student information dashboard includes over 50 data points for each KISR! student, including education and child welfare data. The information is regularly updated so that the stability and success of individual students can be monitored on an ongoing basis. The LPD enables liaisons, education specialists, and program leadership to support individual students and track their progress related to academics, attendance, discipline, extracurricular activities, and more. Cincinnati Public Schools maintains the LPD and ensures education records and JFS data are current for each student.

- **Judicial Bench Card for Education Success.** This tool is used by all eight juvenile dependency court magistrates during KISR! review hearings. It helps stimulate discussion about school issues and ensure education needs are being addressed.

**School Enrollment/Higher Education Assistance**

KISR! is also using creative approaches to address school enrollment and higher education, two issues that are especially difficult for students in foster care.

- The Cincinnati Public Schools “No Barrier Enrollment” process and automatic waiver of school fees based on communication with HCJFS ensure KISR! students have efficient school transitions. These efforts are proving extremely successful, with 100% enrollment of new students at the beginning of the school year.

- Partnering with the Higher Education Mentor Initiative (HEMI) provides many KISR! juniors and seniors with mentors who motivate and support them to seek higher education opportunities. Over 50 KISR! students have participated in HEMI, and in 2014 10 of the 15 scholarships for higher education given by HEMI went to KISR! students.

KISR! is improving school outcomes for students in care in Cincinnati Public Schools. New information-sharing tools, effective coordination across systems, and leadership within the legal, child welfare, and school systems, and educational support of each student in foster care underlie this success. KISR! plans to continue this work in the months and years ahead, with a focus on sustaining the existing model and interventions; using and analyzing data to improve and expand the program; and seeking funding to implement additional interventions and enhancements.

More Resources

**Kids in School Rule! - Child Welfare Information Gateway**


“**Kids in School Rule! Makes a Difference for Foster Children**” from Hamilton County Job and Family Services


**Education Training and Technical Assistance**

The Legal Center for Foster Care and Education at the ABA Center on Children and the Law provides states training and technical assistance. Some sample topics:

- **Identifying Key Goals and Priorities:** Guiding states through a process of identifying their strengths and areas needing improvement, and prioritizing their policy and practice goals.

- **Addressing Data Collection and Information Sharing:** Assisting jurisdictions identify what information needs to be collected and shared across systems, and addressing federal and state confidentiality laws.

- **Promoting Positive Court Practices:** Working closely with the judiciary to improving educational outcomes for youth in care. Providing expertise to lawyers practicing before the court and enhancing the knowledge and attention of legal advocates related to education issues.

- **Implementing Fostering Connections:** Helping states develop plans to implement the education provisions of the Fostering Connections Act.

- **Building Knowledge of Related Laws and Policies:** Sharing legal expertise in a wide range of child welfare and educational laws and policies affecting youth in care.

To request training or technical assistance, send an email to ccleducation@americanbar.org

Morgan Tyler is student at the College of William & Mary and is participating in the DC Summer Leadership & Community Engagement Institute as an intern at the ABA Center on Children and the Law.

This article was based on a recent report, “Kids in School Rule! Today and Tomorrow,” by the KISR! Leadership Team, released in May 2015.
REUNIFICATION HEROES

National Reunification Month is celebrated in June each year. As part of this celebration, the ABA Center on Children and the Law highlights professionals who work to promote family reunification. Reunification hero nominees and their profiles can be found at www.ambar.org/reunificationmonth

Katherine Gomez: Parent Advocate and System Reformer

by Kathryn Byers

Kathy Gomez, managing attorney at the Family Advocacy Unit (FAU) at Community Legal Services in Philadelphia, has advocated for the support, preservation, and reunification of low-income families for 15 years. Kathy has made the FAU a national leader in representing parents. She is a zealous advocate for her clients and works with others to reform the child welfare system for kids and families.

Q&A Tell me about your background and how it has shaped your work?

My mother was raised in India and my father in Colombia. They met in New York City and that’s where I was born. Being raised by parents of diverse religions and backgrounds was an enriching experience that has shaped my view on the importance of respecting and considering a variety of perspectives on issues.

Q&A What drew you to child welfare?

I was always interested in social justice and knew I wanted to provide legal services for people with low incomes, but I didn’t think child welfare was my calling. Unfortunately, I also had some negative preconceived notions about these parents. Working with my first clients radically changed my perspective about these parents and children and the critical importance of the work. While no one wants to lose their house or job, those losses pale in comparison with the possibility of permanently losing your children and family.

Most of my clients were single parents who deeply loved their children, but struggled with issues that affected raising their children safely and were further compounded by crushing poverty. Many were victims of abuse and trauma themselves and needed compassionate help. Most could parent with meaningful support. I saw how traumatic it is for children to be removed and how important it is to be raised by their families where possible. Lawyers can make a tremendous difference for these families and I became passionate about that.

Q&A What positions have you held in this field?

I started as an Equal Justice Fellow for two years. Then I rose through the ranks at Community Legal Services as a staff attorney, a supervising attorney, and now I am a managing attorney at the FAU where we represent several hundred parents a year.

Q&A What one experience shaped how you think about reunification?

Two moments have stuck with me. The first was interviewing a parent who was deaf and finding out he was struggling to understand parenting classes taught by an instructor who couldn’t sign and wasn’t provided an interpreter. The other was representing a mother who was undocumented and had limited English proficiency. Her immigration status was raised in the petition and in her mental health evaluations and she was having trouble accessing services.

In both cases, I felt the children should not have been removed. They desperately wanted to go home. I learned how important it was to understand your client’s situation and needs, to advocate zealously that they be provided the right help in an accessible way, and to ensure issues unrelated to child safety are not inappropriately influencing the case. Too often the parent or family has been mismatched to a service intended to help with the process. The parents of course are blamed when services fail.

Q&A What are some strengths of the child welfare system in your area?

One strength is the communication between stakeholders, the child welfare agency, and court leadership. At several meetings, including our local children’s roundtable meetings, issues are discussed and the focus is problem solving. There is an acknowledgement that we have to collaborate transparently to improve practices and outcomes for families.

We also have adjudication hearings early in the case and 90-day review hearings, which help ensure issues are addressed in individual cases without delay.

The Achieving Reunification Center (ARC) also helps parents receive services they need be it parenting classes, a place for supervised visits, a treatment facility, or job assistance.

Q&A What are some weaknesses?

There are too many children in placement and the reunification rate hovers...
Describe some efforts you have made to improve child welfare practice in your area?

Some key efforts are:

- Worked to move my office’s practice towards a holistic model, where most cases have a lawyer and social worker or paralegal team who represents clients at all stages, especially between hearings.
- Helped create and provide input on numerous policies to improve local and statewide child welfare practices, including a policy about interpretation issues for families where a parent or child is deaf or hard of hearing (in response to the type of cases I described earlier).
- Helped draft standards of practice for parent and child attorneys in Pennsylvania that have now been approved by the PA Children’s Roundtable.

None of these accomplishments were mine alone nor would they be possible without joint efforts by talented colleagues in my office and other agencies who believe in systemic advocacy and community education as a vehicle for change.

What one thing do you recommend to increase the likelihood of reunification?

Visitation is a powerful predictor of successful reunification, so parents should do everything to maximize the time they spend with their children and make that time meaningful. Their child needs them emotionally and maintaining and strengthening the parent–child bond is critical to reunification.

What advice would you give other child welfare professionals or those considering working in child welfare?

I have four pieces of advice to child welfare professionals or those considering this work:

1. Recognize and resist the urge to practice in a defensive and reactionary way. It doesn’t help children, it harms children. It’s understandable to worry that the media or some watchdog group will single out your actions as imprudent in hindsight if something should go wrong. However, removing a child when it’s not clearly necessary and reunification delays harm children.
2. We have to move away from the idea that parents must be able to parent completely by themselves forever without supports from family and community services. Often we see children removed where in-home or family supports would have allowed them to stay safely with their family. It is troubling when such rigid thinking harms a family with a loving parent who has some cognitive limitations or other issues that require periodic or ongoing support.
3. Visitation is a child’s right, a child’s need, it is not just a parent’s right. Research shows visits help children in a variety of ways. Child welfare professionals and lawyers for children should be advocating for more visitation in most cases. Those working in child welfare should routinely question policies or actions that treat the parents and children in the child welfare system differently than we would our own families when it comes to visitation and other issues.
4. Resist approaching cases as parent v. child. We do not help children when we vilify their parents and fail to help to become healthy, safe parents without delay. Even in cases where a child does not reunify, we know many of these children seek out their biological families in the future for connection, so efforts to help parents are important, even when reunification is not achieved.

What advice would you give judges, agency directors, and politicians about improving the system?

If I could change federal and state policies to improve outcomes for families, I would suggest:

- Change the permanency hierarchy to reflect the reality that children seek a connection to their biological families even when raised in other loving permanent homes. Biological parents are more likely to agree to permanency arrangements that do not require permanently severing their relationship to their children. The permanency hierarchy should be: reunification, permanent guardianship, open adoption and so on. Closed adoption should be a last resort, not the second option as it is now.
- Offer further guidance and definition of “reasonable efforts.” The
lack of clarity often translates into the bare minimum and judges are reluctant to enter a finding of no reasonable efforts because of the financial penalty. Rather than allowing for creativity, the lack of definition has had the opposite effect.

- All parents in child welfare proceedings should have the right to counsel at all stages, if they cannot afford counsel, and there should be adequate funding for parent representation. The gravity of the consequences, the constitutional issues and the vulnerability of most parents affected call for this.

- Maintain TANF benefits after removal while a family is working towards reunification. In cases where benefits have ended, restart the benefits 60 days before reunification. Washington State is a great example of where a similar plan is working; it should be in every state. Similarly, don’t pursue child support if it would make reunification more difficult.

Q&A What programs and practices are most effective in helping parents reunify?

- Concrete, hands-on parenting classes where a parent can develop their skills with their own child and receive coaching.

- Trauma-informed therapy with a therapist who can work with the parent regularly with ideally no turnover.

- Inpatient parent-child substance abuse and mental health treatment programs that allow the parent to bring their children with them are also on the top of my list.

- Practices that schedule meetings between parents and foster parents regularly and build that relationship and practices that allow for frequent, least restrictive visitation between parents and children are effective.

Q&A Are there programs/practices that are not effective and need to be changed?

Many families struggle with substance abuse, yet the child welfare and drug and alcohol treatment systems don’t always work well together. Some areas lack programs or funding to offer the depth and length of treatment that is required to improve the likelihood of recovery. There is great opportunity here to help families if cross training, collaboration, and gaps in services are improved.

Parent capacity evaluations need to be scrutinized by advocates and judges to ensure they are consistent with research and evaluate a parent’s ability for parenting. Parenting capacity assessments that rely on IQ, involve a parent with limited literacy filling out tons of multiple choice questions, or simply observe the parent only without observing them with her child are troubling.

Kathryn Byers, JD candidate 2016, is a legal intern at the ABA Center on Children and the Law.

Read Kathy Gomez’s complete interview and other reunification month hero interviews at www.ambar.org/reunificationmonth