

Leading With Understanding:
The Judge's Role In Trauma-Informed Treatment Courts

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SPEAKING, TEACHING & TRAINING - WORLDWIDE

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Change the Paradigm

Change the question from, "What's wrong with you?"

To one that asks, "What has happened to you?"

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SAMHSA's Six Key Principles of a Trauma-Informed Approach

- A trauma-informed approach reflects adherence to six key principles rather than a prescribed set of practices or procedures. These principles may be generalizable across multiple types of settings, although terminology and application may be setting- or sector-specific:
 - Safety
 - Trustworthiness and Transparency
 - Peer support
 - Collaboration and mutuality
 - Empowerment, voice and choice
 - Cultural, historical, and gender Issues



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Trauma-Specific Interventions

- Trauma-specific intervention programs generally recognize the following:
 - The survivor's need to be respected, informed, connected, and hopeful regarding their own recovery
 - The interrelation between trauma and symptoms of trauma such as substance use disorders, eating disorders, depression, and anxiety
 - The need to work in a collaborative way with survivors, family and friends of the survivor, and other human services agencies in a manner that will empower survivors and consumers

Trauma-Informed Care, SAMHSA (04/27/2018)



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Office of Victims of Crime (OVC) Recommends:

- **Encourage Suggestions from Other Court Stakeholders.**
- Encourage parties to cases, attorneys, and *guardians ad litem* to make specific requests for any possible and reasonable adjustment to the proceedings.



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OVC Recommends:

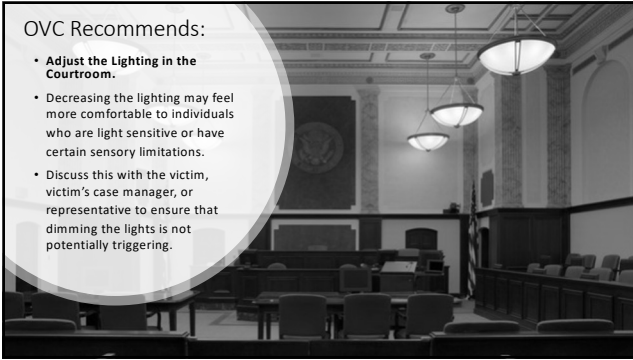
- **Step Down and Leave the Judge's Robe at the Bench.**
- On a limited basis, if no one's personal safety is compromised, a judicial officer may consider sitting at the victim's table with the *pro se* party, especially if the victim does not have legal representation, or with any minor child and the child's *guardian ad litem* or court-appointed special advocate.



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OVC Recommends:

- **Adjust the Lighting in the Courtroom.**
- Decreasing the lighting may feel more comfortable to individuals who are light sensitive or have certain sensory limitations.
- Discuss this with the victim, victim's case manager, or representative to ensure that dimming the lights is not potentially triggering.



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OVC Recommends:

- **Provide Simple Conveniences Like a Box of Tissues or a Bowl of Snacks.**
- Aside from providing an energy boost for anyone in the courtroom, a piece of candy or fruit can often help victims feel calmer and more welcome.

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ALIGNING WHAT WE KNOW
WITH WHAT WE DO

• **Trauma-Awareness:**

- Many courts have come to recognize that acknowledging and understanding the impact of trauma on court participants may lead to more successful interactions and outcomes
- Courts that do not practice trauma-informed decision making may inadvertently increase the level of trauma that families experience

• **Every interaction is an opportunity**

• Triggiano, Mary Hon., "Childhood Trauma: Essential Information for Courts", Wisconsin Association of Treatment Court Professionals, (Mar. 26, 2013)

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“If you don't heal what hurt you,
you'll bleed on people who didn't
cut you.”



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CHILDREN IN CONFLICT: AS VICTIMS

Children as Victims
Judges should endeavor to treat child victims with dignity, compassion and respect due to the amount of courage it takes to cooperate with the legal and judicial process. It is also important to take their individual needs into consideration.

Treatment in Court
Exercise patience with responses to questions. Understand the impact of brain development when victims are re-living traumatic experiences and re-telling events. Explain court processes, procedures and expectations.

Trauma-Informed Approach
Institute effective, age-appropriate interaction and practices with the child to reduce additional trauma. Trauma reduction is directly connected to appropriate child participation in the judicial process. Determine necessity to have clinician assess the psychological capability of the child to testify and treat participation sensitively.



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CHILDREN IN CONFLICT: AS WITNESSES

Children as Witnesses
Similar to child victims, child witnesses should be treated with compassion, respect and empathy due to the amount of courage it takes to cooperate with the legal and judicial process.

Treatment in Court
Consider training in forensic interviewing and encourage stakeholders to undertake training. Adapt court practices to recognize the developmental stages and needs of the child.

Trauma-Informed Approach
Provide the same level of victim assistance and protections as afforded to other witnesses. Encourage criminal justice agencies to collaborate with service providers to limit risk of future offense, additional trauma exposure and duplication of services.



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CHILDREN IN CONFLICT: AS OFFENDERS

RESTORATIVE JUSTICE: AN ALTERNATIVE TO INCARCERATION
 Restorative justice seeks to examine the harmful impact of crime on a community and/or individual and then determine what can be done to repair that harm while holding the person who caused it accountable for their actions. Examples include: mediation and conflict resolution programs, family group conferences, victim impact panels, victim-offender mediation, circle (kiva) sentencing or peacemaking circles.

The 5 R's of Restorative Justice
 Relationship, Respect, Responsibility, Repair and Reintegration

CREATIVE SENTENCING
 Also known as alternative sentencing, is non-traditional punishment that can be used in place of jail time and is often reserved for minor crimes and offenses.



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WHAT HAPPENS WHEN.....

COURT PROCEDURE
 Court officer handcuffs a party/individual without warning

REACTION OF TRAUMA SURVIVOR
 Anxiety about being restrained; fear of what will happen next

TRAUMA-INFORMED APPROACH
 Tell the court officer and party/individual you intend to remand them. Explain why. Explain what is going to happen next, when and why. Example: "The officer is going to walk behind you. You will be handcuffed."



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WHAT HAPPENS WHEN.....

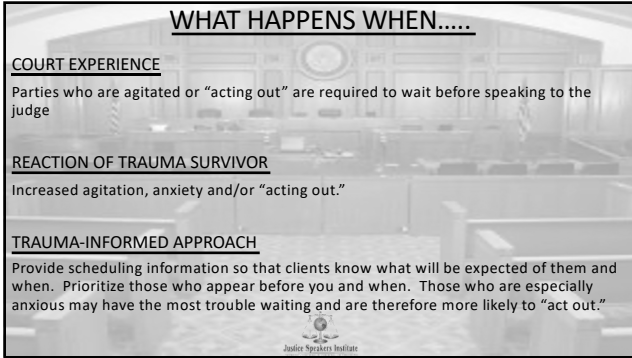
COURT EXPERIENCE
 The judge remands one client for having a positive drug test, but not another. Both clients are in the courtroom at the same time.

REACTION OF TRAUMA SURVIVOR
 Concern about fairness; feeling that someone else is getting special treatment.

TRAUMA-INFORMED APPROACH
 Explain for the first participant, sobriety is a proximal goal and for the second, it is not. Compare time in the program and progress in treatment. Explain that jail is a last resort and your hope that the client will not give up on recovery.



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WHAT HAPPENS WHEN.....

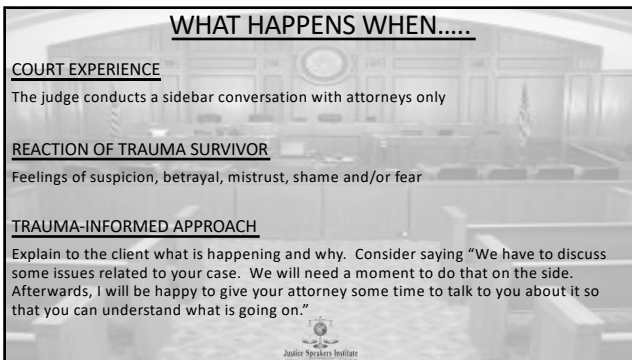
COURT EXPERIENCE
 Parties who are agitated or “acting out” are required to wait before speaking to the judge

REACTION OF TRAUMA SURVIVOR
 Increased agitation, anxiety and/or “acting out.”

TRAUMA-INFORMED APPROACH
 Provide scheduling information so that clients know what will be expected of them and when. Prioritize those who appear before you and when. Those who are especially anxious may have the most trouble waiting and are therefore more likely to “act out.”

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WHAT HAPPENS WHEN.....

COURT EXPERIENCE
 The judge conducts a sidebar conversation with attorneys only

REACTION OF TRAUMA SURVIVOR
 Feelings of suspicion, betrayal, mistrust, shame and/or fear

TRAUMA-INFORMED APPROACH
 Explain to the client what is happening and why. Consider saying “We have to discuss some issues related to your case. We will need a moment to do that on the side. Afterwards, I will be happy to give your attorney some time to talk to you about it so that you can understand what is going on.”

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**COMMUNICATION CHAIN
REACTION ACTIVITY**

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THE LANGUAGE SHIFT

Instead of: The participant failed to comply
Consider using: The participant faced a barrier completing..."

Instead of: They showed a defiant/bad attitude
Consider using: The exhibited a protective freeze/flight response when..."

Instead of: The participant was manipulative/dishonest
Consider using: The participant minimized the situation due to fear of safety or shame..."

Instead of: They are resistant to treatment
Consider using: The current treatment approach is not yet engaging the participant's needs"





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Judge's Comment
 "Your test came back dirty."

Perception of Trauma Survivor
 "I'm dirty." "There is something wrong with me."

Trauma-Informed Approach
 "Your drug screen showed the presence of drugs." "Your drug test was positive."



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Judge's Comment
 "Did you take your meds today?"

Perception of Trauma Survivor
 "I'm a failure. I'm a bad person. No one cares how the drugs make me feel."

Trauma-Informed Approach
 "Are the medications your doctor prescribed working well for you?"



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LANGUAGE MATTERS

Judge's Comment

"You didn't follow the contract. You're going to jail. We're done with you. There is nothing more we can do."

Perception of Trauma Survivor

"I'm hopeless. Why should I care how I behave in jail?"
"They expect trouble anyway."

Trauma-Informed Approach

"Maybe what we've been doing isn't the best way for us to support you. I'm going to ask you not to give up on recovery. We're not going to give up on you."



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Judge's Comment

"I'm ordering you to get a mental health evaluation."

Perception of Trauma Survivor

"I must be crazy. There is something wrong with me that can't be fixed."

Trauma-Informed Approach

"I'd like to refer you to a doctor who can help us better understand how to support you."

"Essential Components of Trauma-informed Judicial Practice"
SAMHSA (2013)



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Morning Mix

A compassionate judge sentences a veteran to 24 hours in jail, then joins him behind bars

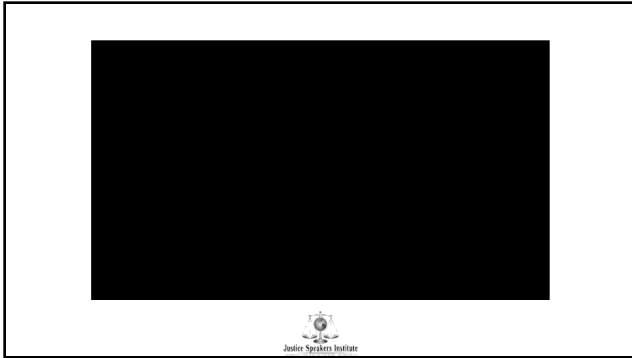
By Yanan Wang, April 22 at 4:12 AM



Cumberland Co., NC



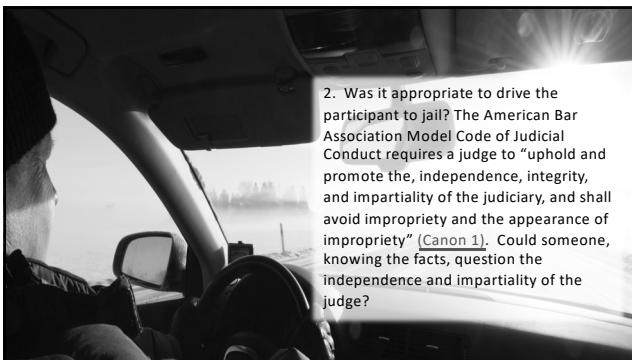
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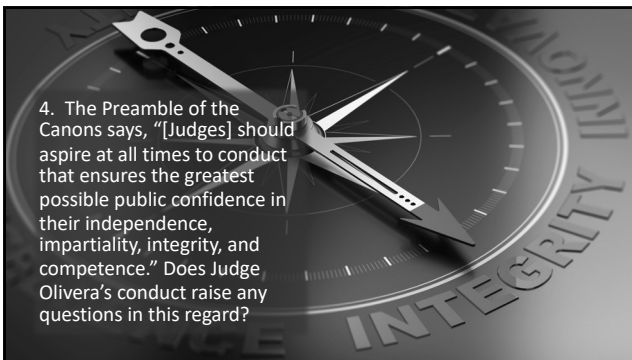
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3. Canon 2, among other things, prohibits a judge from having *ex parte* communication. No defense attorney nor prosecutor was present at the jail. No court reporter was on hand to make a record. The conversation was personal according to Serna. What did they talk about? How might the judge use this information in the future? Was something said that would be of interest to the attorneys?



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4. The Preamble of the Canons says, "[Judges] should aspire at all times to conduct that ensures the greatest possible public confidence in their independence, impartiality, integrity, and competence." Does Judge Olivera's conduct raise any questions in this regard?



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Can Judicial Compassion Be Unethical?

• <http://justicespeakersinstitute.com/20>




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Vicarious Trauma

- Trauma affects not only the victims, witnesses, and litigants that appear in court, but also the judges and other court staff.
- Vicarious trauma is defined as "repeated or extreme exposure to details of the event(s)." Repeated exposure to pictures or videos only qualified as vicarious trauma if it was related to work. Anyone who regularly works or appears in courts may be exposed to this kind of repeated exposure to graphic photos, videos, or testimony about horrific events.

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Vicarious Trauma

The symptoms are closely related to post-traumatic stress disorder (PTSD) so that judges, court personnel, or jurors who sit through child abuse, domestic violence, or other case types providing graphic details of someone else's traumatic experience are at risk, and their need for treatment options is being recognized by many state court systems.



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For More Information

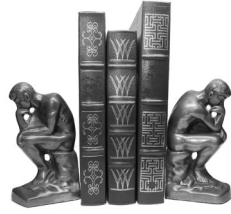
- "Healing Invisible Wounds" http://www.justicepolicy.org/images/upload/10-07_REP_HealingInvisibleWounds_JJ-PS.pdf
- Essential Components of Trauma-Informed Judicial Practice," SAMHSA (2013)
- https://www.nasmhpd.org/sites/default/files/JudgesEssential_5%201%202013finaldraft.pdf
- SAMHSA'S National Center on Trauma-Informed Care (NCTIC)
- <http://www.nasmhpd.org/TA/nctic.aspx>



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For More Information

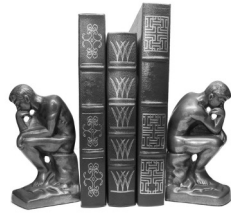
- The National Child Traumatic Stress Network (NCTSN)
• <https://www.nctsn.org/>
- GAINS Center for Behavioral Health and Justice Transformation
• <https://www.samhsa.gov/gains-center>
- Ten Things Every Juvenile Court Judge Should Know About Trauma and Delinquency
• www.ncjfcj.org



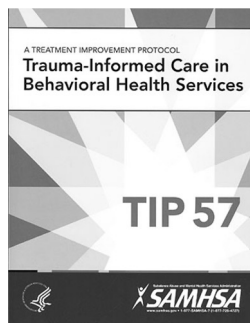
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For More Information

- Trauma Informed Care in Mental Health Courts
<https://cspijusticecenter.org/wp-content/uploads/2016/05/Trauma-Webinar.pdf>
- Family Court Tool Kit
<http://www.flcourts.org/resources-and-services/court-improvement/family-courts/judicial-toolkits/family-court-toolkit/>
- Blog post: "The Trauma-Informed Courtroom"
• <http://justicespeakersinstitute.com/the-trauma-informed-courtroom/>



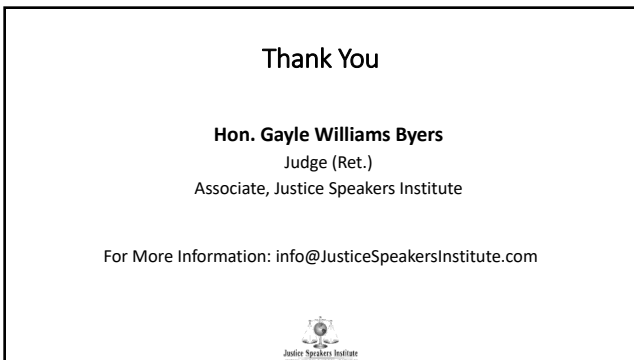
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