

Supplemental Material

Tab #2: The Impacts of Trauma and Trauma- and Violence-Informed Practice

Trauma is the result of an individual's experience of an overwhelmingly negative event or series of events, such as violence. Understanding the impacts of trauma can help legal advisers interview clients effectively and get needed information, while minimizing the potential for additional harm to the client. It can also help in exploring the legal remedies appropriate in the client's circumstances.²¹

Individuals who do not understand the complex impacts of violence and trauma may unintentionally "trigger" clients, and re-traumatize them. Triggers can be anything a victim associates with a traumatic experience; for example, a seemingly innocuous touch on an arm can trigger a sense of threat. Re-traumatization can happen when a victim has to talk about their traumatic experience. It can also happen when people experience discrimination, marginalization or stigma when seeking help.

1. Impact of trauma and violence on clients

Trauma is both the experience of and a response to an overwhelming negative event or experience. A victim of IPV may have a history of individual trauma or collective trauma that affects a whole group of people, such as trauma experienced by Indigenous peoples due to colonization and residential schools. This history of trauma may be compounded by the abuse from their ex-partner.

Trauma can have various impact on victims, such as:²²

- ▶ anxiety or depression, including phobias and panic disorders;
- ▶ disengagement, including in their relationships with others;
- ▶ difficulty regulating emotions;
- ▶ having a distorted perception of their abuser (e.g. seeking revenge, giving power to them);
- ▶ chronic health issues;
- ▶ feelings of helplessness, guilt or shame;

- ▶ eating and sleeping disorders;
- ▶ problematic substance use;
- ▶ self-harming behaviours, suicidal ideation;
- ▶ Post-Traumatic Stress Disorder (PTSD); and/or
- ▶ increased levels of fear and higher daily stress levels.

Victims who live with an abusive partner may also experience frequent unreported and untreated physical violence involving the head, which can lead to traumatic brain injury.^{vii,23} According to a U.S. study in 2018, 50% of women with lived experience of IPV reported probable traumatic brain injury.²⁴ This type of trauma can lead to long-term negative outcomes on victims of IPV, including memory problems, physical symptoms, mood changes, sleep difficulties and difficulties learning new information.²⁵

People react differently to trauma, depending on the nature, severity, frequency and duration of the abuse, their individual characteristics, and their access to support and resources. There is no “right” way for someone to act after experiencing trauma.

2. Client trauma can affect the family law process

Clients who have experienced family violence may not react or interact in ways you might expect.

When representing clients who have experienced IPV, you should watch for symptoms of trauma-related behaviour and indicators of family violence.

Be aware that trauma can significantly affect cognitive functioning and physiology in many ways. This harm can make it difficult for them to:

- ▶ concentrate on what you are saying;
- ▶ take in advice;
- ▶ provide meaningful instructions;
- ▶ process and retain the information you are providing;
- ▶ be organized and keep track of court dates;
- ▶ recall specific details about their experiences or in a coherent chronological order;
- ▶ provide the information you require to proceed with the case;
- ▶ make decisions; and
- ▶ have realistic expectations about possible outcomes, which can result in a lack of satisfaction in what you or the legal system can offer them or their children.²⁶

^{vii} Traumatic brain injury is an injury that affects the brain's ability to function normally. This disruption can impact a person's physical, cognitive and/or emotional well-being, and can lead to long-term disability.

Some victims may remain hyper-vigilant when there is no immediate or clear risk, while others may under-estimate the risk because they have shut down emotionally. The victim may appear unsympathetic, hostile, disengaged or untrustworthy.²⁷ Some manifestations of trauma may have a negative impact on how others respond to the victim.

Your client's experiences of IPV can affect other aspects of your professional relationship with them. For example, clients may:

- ▶ repeatedly cancel visits with you;
- ▶ fail to respond to phone calls or letters;
- ▶ over-consult on issues including small life decisions;
- ▶ be uninterested in pursuing a valid claim for support or other money owing to them, such as an equalization payment;
- ▶ be willing to agree to settlements without any negotiation;
- ▶ not follow through on an agreed-upon plan of action without explanation; and/or
- ▶ act in other ways that could be perceived as difficult.

If the client does not wish to act on your advice, or seeks to do something that is not in their interests, document your advice but respect their decision. Set the ground rules from the beginning: let them know that you will take direction from them after you have fully discussed the options and that you will put the decisions in writing to avoid any misunderstandings about the steps that the client wants you to take on their behalf.

You may also want to refer the client to a family violence expert or advocate for risk and danger assessment, and assessment for the presence of manipulation or intimidation. Alternatively, you can inform them that you support their ability to make choices that make sense for them, but if they decide to proceed in ways contrary to your advice/their legal interests, you may ask them to sign something confirming they are acting against legal advice. If this occurs, you may wish to consult your rules of professional responsibility or consult with colleagues on how to respond.

3. Trauma- and violence-informed practice²⁸

Trauma- and violence-informed approaches are policies and practices that recognize the connections between violence, trauma, negative health impacts and a person's behaviour. The aim of trauma- and violence-informed practice is to provide emotional, physical and cultural safety for all clients, whether or not they are known to have a history of trauma.

The following four principles can help you integrate a trauma- and violence-informed approach into your practice:

1. Understand trauma and violence, and their impacts on people's lives and behaviours;
2. Create emotionally and physically safe environments;
3. Foster opportunities for choice, collaboration, and connection; and
4. Provide a strengths-based and capacity-building approach to support client coping and resilience.

Strategies that reflect the above principles have been incorporated into this toolkit.

The following resources relating to trauma- and violence-informed practice may be helpful to you:

- ▶ The Trauma Informed Lawyer Podcast: <https://www.cba.org/Truth-and-Reconciliation/Events/The-Trauma-Informed-Lawyer>
- ▶ Trauma-Informed Approaches to Family Violence in Family Law: <https://www.fvfl-vfdf.ca/briefs/issue7.html>
- ▶ Trauma-Informed Legal Practice Toolkit - Golden Eagle Rising Society: <https://www.goldeneaglerising.org/initiatives-and-actions/trauma-informed-toolkit-for-legal-professionals/>
- ▶ Trauma-Informed Lawyering: A Tip Sheet for Family Lawyers: <https://onefamilylaw.ca/wp-content/uploads/2019/03/TILTipSheet-Final.pdf>
- ▶ Trauma- (and Violence-) Informed Approaches to Supporting Victims of Violence: Policy and Practice Considerations: <http://www.justice.gc.ca/eng/rp-pr/cj-jp/victim/rd9-rr9/p2.html>
- ▶ The Public Health Agency of Canada: <https://www.canada.ca/en/public-health/services/publications/health-risks-safety/trauma-violence-informed-approaches-policy-practice.html>
- ▶ Trauma-informed: The Trauma Toolkit - Klinik Community Health Centre: http://trauma-informed.ca/wp-content/uploads/2013/10/Trauma-informed_Toolkit.pdf
- ▶ National Center on Domestic Violence, Trauma and Mental Health: <http://www.nationalcenterdvtraumamh.org/trainingta/trauma-informed-legal-advocacy-tila-project/>