

SLATE

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Can Lawyers and Traumatized Clients Learn to Trust Each Other?

Teaching the legal profession to understand the effects of trauma.

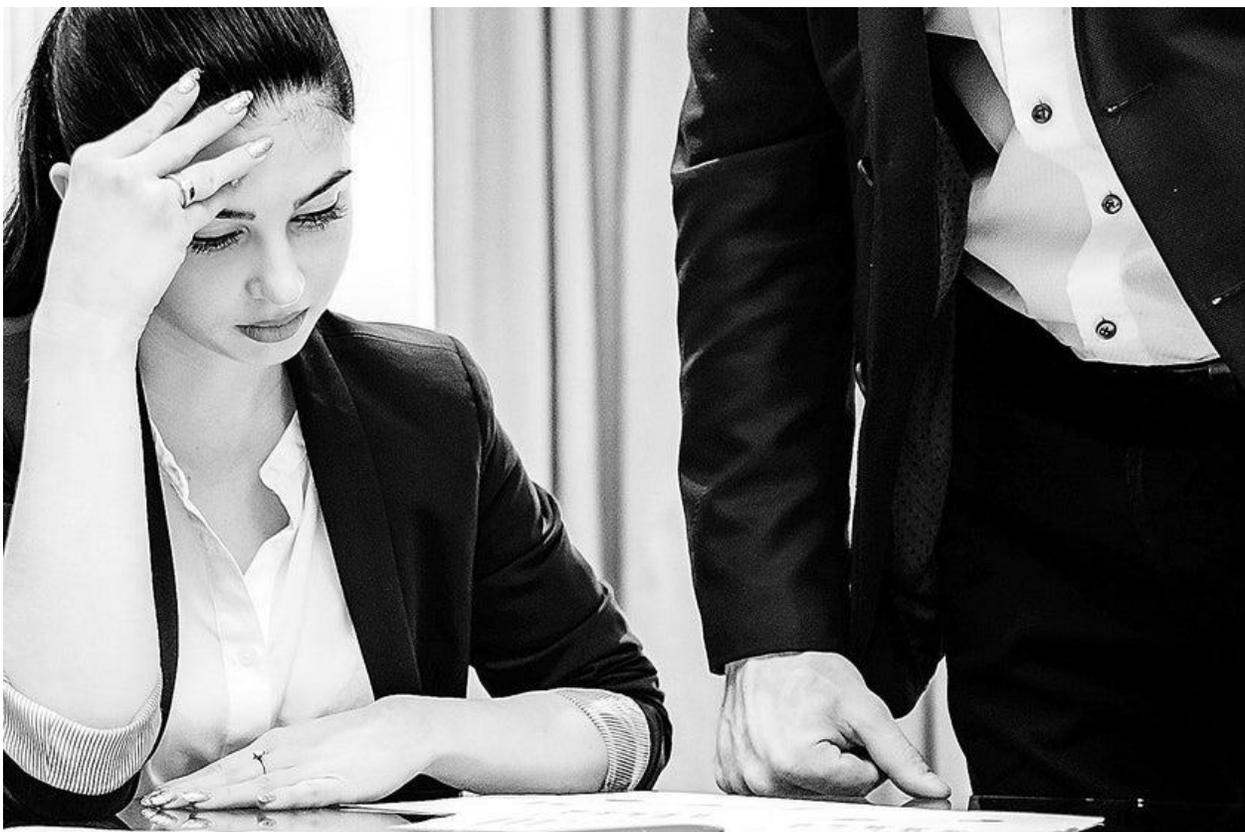


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by Lori Teresa Yearwood

Kelly Young, a white law student at Temple University Law School in Philadelphia, comes from a neighborhood where “everybody pretty much has a house, has a job, has enough,” she said.

So when one of her university's law clinic clients shared a harrowing and complex narrative about how she had been physically and sexually abused, Young admits she felt "lost" about her next steps in the case.

Her client, a diminutive Black woman, sat in one of the clinic's tiny rooms, crying as she delved into a story plagued by gaps in logic and facts. The woman's husband had physically and sexually abused her, then pimped her into prostitution so he could feed his cocaine addiction. In all that abuse, she had self-medicated with drugs, too, she revealed in a quiet tumble of words.

"It would have been so easy for a student like me, or even an attorney to say: 'There are so many gaps. I think you are lying,' " Young, 28, said.

But a law class kept Young from having those knee-jerk reactions. By teaching students to recognize the ways trauma manifests itself in people, the class had trained her to identify, rather than stigmatize, those telltale signs.

This approach to trauma awareness is making its way into the legal profession. Whether taught in formal law classes or in professional training, it is gaining traction across the country, according to the American Bar Association.

"Trauma awareness in the legal system is a significant trend," said Eva Klain, a D.C.-based, child welfare attorney and spokesperson for the ABA. Through hundreds of partnerships with organizations and legal services providers throughout the United States, Kalin added, "We see that lawyers are understanding how essential it is to recognize the trauma of their clients."

At its root, trauma awareness is about "assessing trauma and trauma symptoms in all routine practices and then asking: 'What happened to you?' not 'What is wrong with you?' " said Deeya Haldar, co-author of ["The Pedagogy of Trauma-Informed Lawyering,"](#) published by NYU's Clinical Law Review in 2016. Haldar is a visiting assistant professor at the Charles Widger School of Law at Villanova University, where she teaches trauma awareness to her students.

This shift in thinking first gained traction in the field of mental health about a decade ago. But it took time for the legal field to catch up.

“Lawyers are super late to the party,” said Sarah Reisman, a supervising attorney at Community Legal Aid SoCal, an organization that advocates for low-income people. “We’re trying frantically to catch up because so much of what is going on in our clients’ lives is dictated by their trauma.”

In this country, an often disproportionate number of women and people of color experience trauma, research shows. Nearly [1 in 5 women](#) in the United States have been raped at some time in their lives. In a sample of nearly 4,000 Native Americans and Alaska Natives [56.1 percent of women](#) reported experiencing sexual violence at some point in their lives. And [in a sample](#) of more than 1,600 Black/African American and multiracial adolescents aged 13–17, 18 percent of respondents said they had been forced into unwanted sexual acts while 13 percent said that they had been sexually attacked or raped.

Meanwhile, the Black Lives Matter movement has brought urgent attention to the accrual of systematic racism that includes the police brutality that Black people endure in this country—forms of trauma that call urgently for the need for trauma-informed legal help. Without this care, legal experts say, these populations are likely to be retraumatized in a system that diminishes them as unreliable, untrustworthy, even challenging to represent.

“I think there is a great positive effect to understanding racism as a trauma and I think trauma-informed attorneys understand that trauma is not just about something like domestic violence—and trauma-informed attorneys, even if they are not from the same culture as their clients, would be able to incorporate that understanding of racism as a trauma into their representation,” said Haldar.

No organization keeps publicly available statistics on the proliferation of trauma-informed attorneys. However, Meg Garvin, executive director of the National Crime Victim Law Institute, estimated that her organization trains as many as 4,000 attorneys and legal advocates a year in the

nuances of trauma-informed lawyering. Ten years ago, she estimated, that number was 1,300.

Instead of judging or dismissing her clinic client, Young, the law student at Temple University, leaned on the information she was studying in her trauma awareness legal class—particularly that trauma can alter the way the brain processes, interprets, and differentiates between present and past information.

“Working in a trauma-informed way is not going to be like reading a novel,” Young said. “It’s going to be patchy and confusing.”

By definition, a trauma-informed legal practice aims to reduce retraumatizing the client and to better advocate for clients by recognizing the role that trauma plays in shaping the lawyer-client relationship.

“We step away from the paradigm that we hold all the information and they know nothing—a paradigm that retraumatizes a person,” said Rebekah Thomas, associate attorney at the Holzer Law Group in Santa Ana, California, and president-elect of the Thurgood Marshall Bar Association in Orange County, which supports the Black legal community there.

In addition to her personal experiences with racism, Thomas has also attended classes on how to be a trauma-informed attorney. One of the most important lessons she learned, she said, was how intimidating the law is to a layperson, and therefore how important it is to help each person involved in the legal process to “feel empowered, versus feeling like something is happening to them.”

A recent example: A Black Irvine resident contacted the association, Thomas says, saying he felt Mayor Christina Shea had violated his First Amendment rights by blocking his profile on Facebook after he made comments in support of the Black Lives Matter movement.

“We brought him into the process,” Thomas said. “We asked him: Do you want to come to the press conference? Would you like to speak to how you felt? It wasn’t just, ‘Thank you for telling us, let the lawyers take it from here.’ He sat down with an attorney, and he felt heard. That was the

trauma-informed part. What he may find is that: ‘Hey, my voice matters.’ Change may happen because of that.”

Those who do not feel heard end up walking away from the legal system and sometimes all government systems, vowing never to engage in them again, Thomas said.

But in July, [the L.A. Times wrote](#) that the Irvine resident had filed a complaint in federal court, accusing Shea of violating his First Amendment rights. And in January, the city of Irvine [settled the suit](#) for nearly \$40,000.

Mary, a 46-year-old Los Angeles resident who asked that her real name not be used—“I haven’t told my family members about the assault because I don’t want them to worry about me,” she said—has been plagued by an overwhelming sense of helplessness since she was assaulted by her massage therapist two years ago.

She hired the therapist to help relieve the painful nerve damage caused by a car wreck some years earlier. The two had worked on and off for nearly a year when one day, he suggested she book a longer, hour-and-a-half appointment to work on a particularly tight area around the right side of her hip, Mary recalled.

“That is when he assaulted me,” she said. “I froze. It’s very frustrating that I didn’t react the way I wish I would have. I just remember looking at the clock at the time and thinking: ‘This will be over. This will be over.’ And it just went on. He went over the time by about 20 minutes.”

She hasn’t been able to work at her career as a financial analyst since, she said; she faces too many anxiety attacks to think clearly. Unable to pay for her apartment, Mary moved back in with her parents.

The estimated lifetime cost of rape was \$122,461 per victim, or “a population economic burden of nearly \$3.1 trillion,” according to [a 2017 report](#) published by the American Journal of Preventive Medicine. “Costs included attributable impaired health, lost productivity, and criminal justice costs from the societal perspective.”

Attorneys who understand the impact of trauma can better advocate for the correct restitution that their clients need to fully recover, legal experts say, particularly when it comes to long-term mental health treatment to counter the devastating psychological impact of abuse.

Sarah Katz, the associate clinical professor of law at Temple University who oversaw Young's interactions with her traumatized client, said that "all the students I teach walk away with some understanding of trauma-informed practices." One of Katz's main emphases when she teaches is how to spot signs of trauma manifesting in a client's behavior. For instance, sometimes clients don't appear to want to answer a question, or they go into a long diatribe about something seemingly unrelated, Katz says.

"If I don't know about trauma, I could judge the person and say that they are not listening," she says. "But if I know about trauma, I know that when a person is talking and talking—it's called flooding—the trauma experience is overriding my question."

In that circumstance, she teaches her students to be empathetic instead of judgmental, often by allowing their clients to "flood for a while" and then helping them to refocus by saying something like: "I know you have a lot of things you want to tell me. And you want my help. So it's not that I don't want to hear what is important, but let me also tell you what information I need to prepare for the case."

Clients who act withdrawn or "flat" may also be exhibiting trauma, Katz said. "It might be because they are not sure what you are going to do with the information," the professor says.

If the attorney understands that the client's experience has resulted in them not being trusting, then the attorney is much less likely to be judgmental about the behavior or to take it as a personal attack, Katz said. Otherwise, the client's story doesn't get told.

"And then, much worse and more likely, the client is retraumatized by the experience and walks away thinking: 'No one has ever helped me before and this person isn't helping me either,'" Katz said.

Interviewing exercises, role playing, and strategizing, along with constant reminders about how trauma [affects the brain](#), are all part of Katz's curriculum.

Across the country in Los Angeles, Community Legal Aid SoCal supervising attorney Sarah Reisman said that running a trauma-aware legal firm is a complete paradigm shift from the conventional approach in which she was trained.

“We're taught to come from an expertise perspective—to see things in a black-and-white perspective and then to go forth and win,” Reisman said. “So to say: ‘This person sitting across from me is an expert in her own life’—that is a shift in perspective.”

Even the office spaces at her nonprofit firm are designed with trauma awareness in mind: The rooms set aside for meetings with clients have soothing window views; clients are given direct phone numbers of various team members with whom they feel safe—including their attorneys—so that the clients do not have to feel the helplessness of not knowing when a message on an office voicemail will get picked up.

Carmella's memory of that terrible night skips haphazardly: Her landlord walked uninvited into her kitchen, she says, insisting that she drink a beer. She refused. She was married and wanted him to go away. But he was relentless. Having no idea that he had secretly tainted the drink with a drug to render her unconscious, she gulped it down—and quickly blacked out.

Other than that, the details of that evening remain as disordered as the buttons on her dress, the ones her assailant ripped open and then hastily twisted into a crazy, lopsided line—an upsetting metaphor for the way her life still feels, years later.

Carmella, who lives in that same apartment in Los Angeles, asked that her real name not be used because she is afraid of retribution from that landlord.

She takes a deep breath, centers herself. The chronology of the crime comes into focus. The assault happened two months after she married

her husband in October 2015, she says. After that, she saw a trauma-informed attorney who assessed her case and helped her choose the legal avenues that would not retraumatize her.

Even with the recurring flashbacks and bouts of anxiety and sadness, the 45-year-old volunteers at a community hospital, where she talks to four to five families a week, helping them to understand what she didn't—their rights as tenants.

“I want to help women,” Carmella says. So, she said: “I refer them to lawyers.”

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Lori Teresa Yearwood. Photo: Cass Studios of Salt Lake City
Lori Teresa Yearwood's work can be found at loriyearwood.com

