

Essential Components of Trauma Informed Judicial Practice

Changing the Paradigm from What Is Wrong with You To What Happened to You. Many of the individuals who Come Into Your Courtroom have been severely injured as children, and their behaviors, although ineffective are ways to maintain and cope with toxic stress. Following are four essentials of trauma informed care and a few ideas of how to create these essentials in one's Court Room

Connect: Every interaction between a judge and a court participant is an opportunity for engagement. There is no script to follow to ensure that each communication is trauma informed.

Protect: The goal is to guarantee physical and emotional safety for all individuals who appear in one's court.

Respect: Trauma Informed Judicial interactions begins with treating individuals who come before the court with dignity and respect.

Teach and Reinforce: Encouraging skill-building and competence by acknowledging strengths and underlying positive intent of behavior.

The following three tables, which focus on courtroom communication, courtroom procedures, and courtroom environment, provides examples of court room experiences, the reactions of traumatized individuals, and a possible trauma informed approach.

Courtroom Communication

JUDGE'S COMMENT

PERCEPTION OF TRAUMA SURVIVOR

TRAUMA-INFORMED APPROACH

"Your drug screen is dirty."

"I'm dirty. There is something wrong with me."

"Your drug screen shows the presence of drugs."

"Did you take your pills today?"

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

"Are the medications your doctor prescribed working well for you?"

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

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

"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."

"I'm sending you for a mental health evaluation."

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

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

Courtroom Procedures

COURTROOM EXPERIENCE

A court officer handcuffs a participant without warning to remand him or her to jail because they have not met the requirements of their agreement with the court.

A judge remands one individual to jail but not another when they both have done the same things (e.g., had a positive drug screen) and they are both in the courtroom at the same time.

Individuals who are frightened and agitated are required to wait before appearing before the judge.

A judge conducts a sidebar conversation with attorneys.

A participant enters a plea that does not appear to be consistent with the evidence, his or her own description of the event, or his or her own best interests.

REACTION OF TRAUMA SURVIVOR

Anxiety about being restrained; fear about what is going to happen.

Concern about fairness; feeling that someone else is getting special treatment.

Increased agitation; anxiety; acting out.

Suspicion, betrayal, shame, fear.

Memory impairment; confusion about courtroom procedures; inability to process implications of the plea.

TRAUMA-INFORMED APPROACH

Tell the court officer and the individual you intend to remand them. Explain why. Explain what is going to happen and when. *(The court officer will walk behind you, you will be handcuffed, etc.)*

Explain why you are doing this. For example, *“Both Sam and Meredith had positive drug screens. Sam is new to drug court and this is the first time he had a positive screen. We are going to try again to see if the approach we’re using can be effective. Meredith has had multiple positive drug screens, I’m remanding her to jail because the approach we’ve been using here hasn’t been effective in supporting her recovery. I wish I had a better choice, and I hope she won’t give up on recovery.”*

Clearly provide scheduling information in the morning so participants know what will be expected of them and when. To the greatest extent possible, prioritize who appears before you and when; those who are especially anxious may have the most trouble waiting and be more likely to act out.

Tell the participant what is happening and why. For example, *“We have to discuss some issues related to your case. We just need a minute to do it on the side.”*

Adjourn to allow time for courtroom team to discuss whether and how to accept the plea.

Courtroom Environment

PHYSICAL ENVIRONMENT

The judge sits behind a desk (or “bench”), and participants sit at a table some distance from the bench.

Participants are required to address the court from their place at the defendant’s table.

Multiple signs instruct participants about what they are not allowed to do.

A court officer jingles handcuffs while standing behind a participant.

A judge asks a participant to explain her behavior or the impact of abuse without acknowledging the impact of others in the courtroom.

REACTION OF TRAUMA SURVIVOR

Feeling separate; isolated; unworthy; afraid.

Fear of authority; inability to communicate clearly, especially if an abuser is in the courtroom.

Feeling intimidated; lack of respect; untrustworthy; treated like a child.

Anxiety; inability to pay attention to what the judge is saying; fear.

Intimidation or fear of abusers who may be in the courtroom; reluctance to share information in front of family members or others who do not believe them.

TRAUMA-INFORMED APPROACH

In some treatment courts, the judge comes out from behind the bench and sits at a table in front.

When practical, ask the participant to come close; speak to them beside or right in front of the bench.

Eliminate all but the most necessary of signs; word those that remain to indicate respect for everyone who reads them.

Eliminate this type of nonverbal intimidation, especially if you have no intention of remanding the individual. Tell the court officers not to stand too close. Respect an individual’s personal space.

Save questions about sensitive issues for when the courtroom is empty or allow the participant to approach the bench. If ongoing abuse or intimidation is suspected, engage those people in activities outside the courtroom while the participant shares her story.

This document was compiled by the Policy committee of the Trauma Informed Care Project of Orchard Place adapting information from Substance Abuse and Mental Health Services Administration, SAMHSA’s National Center on Trauma-Informed Care and SAMHSA’s National GAINS Center for Behavioral Health and Justice: Essential Components of Trauma- Informed Judicial Practice. Rockville, MD: Substance Abuse and Mental Health Services Administration, 2013.