

What do Judges Want?

Tips for Effective Report Writing and Testifying

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Tips for effective testimony

TWO IMPORTANT RULES:

RULE #1: DON'T TICK OFF THE JUDGE.

RULE #2: SEE RULE #1

More Tips:

- Tell the truth
- Be prepared
- Establish your expertise
- Write, speak, and dress professionally
- Be sure you understand the questions
- Control the Pace
- Correct the record if necessary

Tips



**STAY
CALM**

- Avoid distracting mannerisms
- Testify convincingly
- Always be courteous
- Give up the obvious
- Keep your cool
- Speak clearly and in plain English
- Never speak while someone else is speaking
- Relate objective observations unless asked for an opinion or conclusion
- Keep the court reporter happy

MORE RULES



- Answer the question as asked
- Do not look for assistance answering questions
- Avoid bantering with colleagues off the record
- Familiarize yourself with local courtroom etiquette
- Familiarize yourself with confidentiality requirements
- Meet the attorney who subpoenaed you prior to the hearing
- Do not answer a question with a question unless you need clarification

Trauma Informed Courts

Most children who become involved in the child welfare system have likely had multiple exposures to trauma.

**Family
Violence**

**Substance
Abuse**

**Sexual
Abuse**

**Physical
Abuse**

**Subsequent
placement
in foster care**

**Removal from
primary
caregiver**

Other Sources of Stress

The children we serve may also face other stresses in their life such as:

- Poverty; intergenerational trauma
- Discrimination
- Separations from caregivers and family members
- Frequent placements (or moving around often)
- Problems at school
- Immigration issues

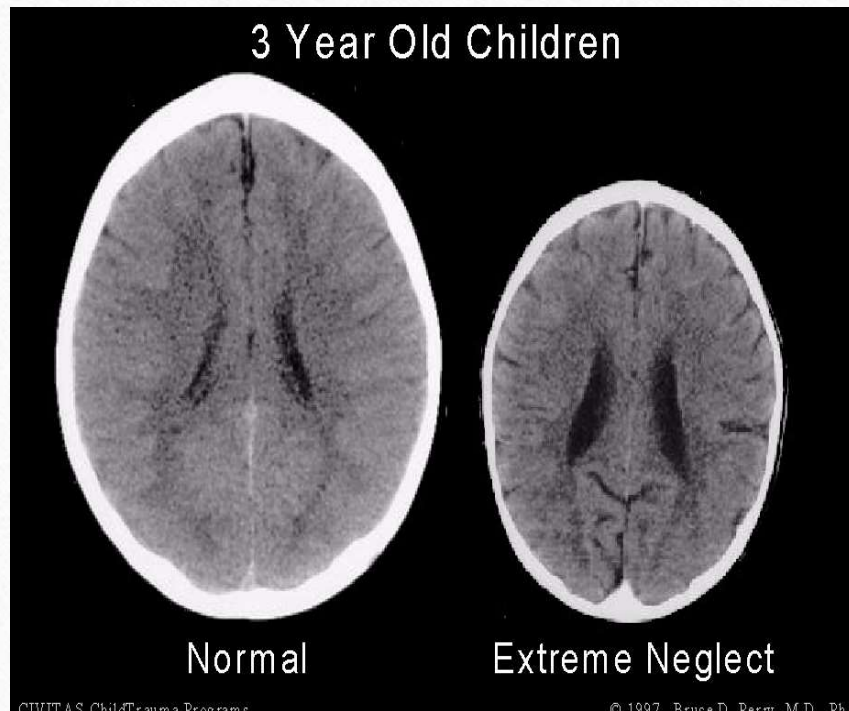
Effects of Trauma on Children

Traumatic Stress can alter a child's development and functioning, affecting their:

- Biology / physiology
- Relationships / Attachment
- Ability to control behaviors / emotions
- Cognitive skills

Trauma and the Brain

In early childhood, trauma can reduce the size of the cortex, which is responsible for complex functions, such as language and memory.



The picture to the left is a CT scan of two 3-year-old children. The image to the left is from a healthy child and represent a normal head size. The image to the right is from a 3-year-old that suffered severe neglect. The brain is significantly smaller than average and has abnormal cortex development.

The Importance of Developing Trauma-Informed Systems

(NCTSN; Judge Michael Howard and Dr. Frank Putnam, Ohio, 2009)

- A Trauma-Informed System of Care acknowledges and responds to the role of trauma in the development of emotional, behavioral, educational, and physical difficulties in the lives of children and adults
- The System recognizes and avoids inflicting secondary trauma

The Adverse Childhood Experiences (ACE) Study

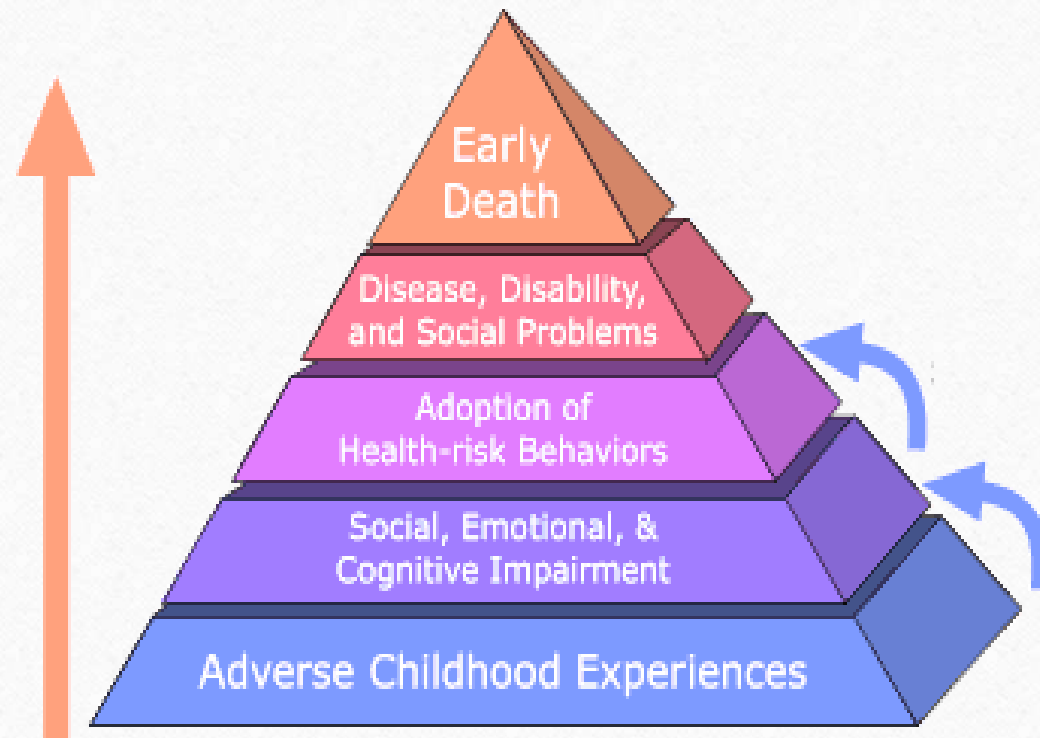
- The largest study of its kind ever done to examine the health and social effects of adverse childhood experiences over the lifespan (18,000 participants)
- Trauma exposure / trauma symptoms associated with a higher number of common health problems

Effects of Early Traumatic Exposure: Physical Health and Development

- Adverse Childhood Experiences – ACE Study
- Trauma exposure / trauma symptoms associated with a higher number of common health problems

Adverse Childhood Experiences--

ACE Study Felitti, Anda, et al. (1998)



Adverse Childhood Experiences

- Abuse and Neglect (e.g., psychological, physical, sexual)
- Household Dysfunction (e.g., domestic violence, substance abuse, mental illness)



Impact on Child Development

- Neurobiologic Effects (e.g., brain abnormalities, stress hormone dysregulation)
- Psychosocial Effects (e.g., poor attachment, poor socialization, poor self-efficacy)
- Health Risk Behaviors (e.g., smoking, obesity, substance abuse, promiscuity)



Long-Term Consequences

Disease and Disability

- Major Depression, Suicide, PTSD
- Drug and Alcohol Abuse
- Heart Disease
- Cancer
- Chronic Lung Disease
- Sexually Transmitted Diseases
- Intergenerational transmission of abuse

Social Problems

- Homelessness
- Prostitution
- Criminal Behavior
- Unemployment
- Parenting problems
- Family violence
- High utilization of health and social services

Secondary Trauma

(From Judge Michael Howard, Juvenile Judge in Ohio, 2009)

- Secondary trauma occurs when child serving systems re-traumatize a child through policies and procedures
- Examples: multiple placements; handcuffing parents in front of their children; visitation; change of caseworkers; court situations; detention centers; institutional trauma; foster care

Trauma-Informed Child Welfare System

NCTSN

Child Welfare Committee, April, 2012

- All parties involved recognize & respond to the impact of traumatic stress;
- Children, caregivers, and service providers;
- Infuse & sustain trauma awareness, knowledge, and skills into their organizational cultures, practices, and policies;
- Collaboration;
- Using the best available science to facilitate & support the recover of the child & family

Trauma-Informed Child Welfare System, cont.

1. Screen for trauma exposure;
2. Assessment and treatment;
3. Make resources available on trauma;
4. Strengthen the resilience & protective factors of children and families;
5. Address parent and caregiver trauma;
6. Continuity of care and collaboration;
7. Addresses secondary traumatic stress, increases staff resilience.

Provide Education about Negative Effects of Multiple Placements

- Work to make decisions that take into account the impact on the child's development
- Provide education about the need for monitoring of placements, including kinship placements
- Request health and developmental assessments, including behavioral health assessments

Take into Account Preparation for Transitions

- Request quality home **studies on all potential placements** including relatives as early as possible
- Build in a **transition plan** at every point where a change of placement is required
- If a change is needed, try to keep the child in the same geographic area and make sure caseworkers and foster parents understand the importance of the medical home.

Work to Make Family Time (Visitation) as Developmentally Appropriate as Possible

- Infants and toddlers need frequent visitation to build the attachment relationship
- Predictor of reunification is frequency of visits
- Visits with young children should occur:
 - as often as possible
 - for as long a period of time as possible
 - in a comfortable and safe setting
 - Include supervision if needed; but frequent contact is important for development

Promote Resilience in Children and Families

- Successful prevention programs alter the balance of risks and assets
- Interventions that work -- combine strategies that **promote competence** with those that **reduce problems**
- Cumulative risk calls for cumulative protection

Resilience as “Ordinary Magic”

(Ann Masten, American Psychologist, 2001)

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- Protective factors are the building blocks of resilience
 - Doing OK despite adversity
 - Resilience does not require something rare or special
 - More or “enough” perceived resources—in their minds, bodies, families, and communities

Measuring Resilience

- Difficult due to multiple definitions
- Consensus on what builds resilience
- Individual, family, and community resilience
- Similar factors that go into resilience such as
- Social capital, family and social connectedness, self-efficacy

What matters is not rare or extraordinary

- **Most Important** - Attachment relationships and social support
- Reasonable intelligence
- Opportunities to learn and **be effective**
- Self-efficacy (“I can do it”)motivation
- Regulation of emotion, arousal, behavior
- A sense of belonging or meaning in life – A “**sense of place**”

To Strengthen Families: Identify Protective Factors

- The greatest threats to children happen when the adaptive systems that normally protect development are harmed or destroyed
- Protective factors can buffer, help parents or caregivers find resources, supports, or coping strategies that allow them to parent effectively, even under stress – “Angels in the Nursery”

Bringing the relationship into the courtroom

Testifying in Child Parent Psychotherapy Cases

Informed Consent

Before you share information or go to court....

Informed Consent

Include:

- Description of Child-Parent Psychotherapy
- Who is involved in Child-Parent Psychotherapy process
- Typical process for Child-Parent Psychotherapy case
- When you may be asked to share information
- How you will go about sharing information
- Reactions to Child-Parent Psychotherapy a caregiver might expect from their child
- Reactions they might expect to processing their own trauma



Informed Consent – Relationship Building



- Informed consent is more than just paperwork
- Important for the clinician to have open and honest conversations, even if an informed consent is signed
- Important to establish a therapeutic and trusting relationship with the caregiver

What You Should Know in Preparation for Testifying in Court

Testifying in Court

Therapists should...

- Be able to describe training and experience in detail
- Be familiar with the qualifications and licensing requirements in their state
- Be prepared to testify about what additional supervision or consultation they received in the past
- Be prepared to testify about general and specific consultation on the case

Testifying in Court

Therapists should be able to discuss relevant work and research on the importance of work in the relationship in order to heal trauma for young children and support their development, including:

- Early brain development
- Impact of trauma on young children
- Importance of early healthy relationships
- Significance of healthy social and emotional development
- Ways to support healthy social and emotional development



Testifying in Court

- Therapists should be prepared to discuss research every time they are in court
 - May have to testify repeatedly about knowledge they have previously testified to
- Therapists may be expected to share information in:
 - Family team meetings
 - Formal discovery (e.g. interrogatories or depositions)
 - Professional staff meetings

Creating “Meaning” for the Court about the Therapeutic Work

Therapeutic Work

Therapists should...

- Have a good understanding about trauma
- Be able to articulate how trauma may specifically affect young children
- Be able to discuss why healing trauma in the context of the relationship is important



Therapeutic Work

- Be able to testify about what behaviors from the assessment and/or sessions of CPP mean for the child and the dyad. This should include:
 - Trauma reminders for child and caregiver
 - Reactions/behaviors observed when trauma reminders are present
 - Behaviors such as hyper vigilance, avoidance, behavioral and emotional dysregulation
 - Interventions that are being used to help heal the relationship and lessen the impact of trauma reminders for the child

Therapeutic Work



- Therapists are painting a picture for the court about the everyday life for the caregiver, child, and dyad in terms of the child's functioning

Therapists should...

- Be able to discuss how CPP goals are designed to assist the dyad in repairing the relationship and helping the child progress developmentally

Making Recommendations

Making Recommendations

- Clinicians may be asked to make recommendations regarding the child and/or dyad
- These recommendations should be:
 - Discussed with the parent prior to the testimony (to ensure open communication)
 - Clinical in nature but may address the needs of the dyad, child, or caregiver

Your Role

Visitation, specific placements, or status of parental rights are not clinical decisions

- Individual judges may permit questions about what may be necessary in a child's environment and what deficiencies have been observed in the caregiver
- Clinicians may want to describe conditions that best support the dyad and child



REFERENCES

- Cohen, Hon. Connie, “Tips for Testifying”
- Osofsky, Joy Ph.D, Cohen, Hon. Connie, Cole-Mossman, Jennie, “Testifying in Court for Child Parent Psychotherapy Providers: Helping the Court Understand the Parent, Child, and Dyad”, Quality Improvement Center for Research-Based Infant – Toddler Court Teams, February 2016.
- Tip Sheet for Clinicians , “Testifying in Court about Trauma: How to Prepare”, National Child Traumatic Stress Network, www.nctsn.org