

TRAUMA-INFORMED ASSESSMENT OF EVALUEES IN FORENSIC AND CORRECTIONAL CONTEXTS

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Agenda

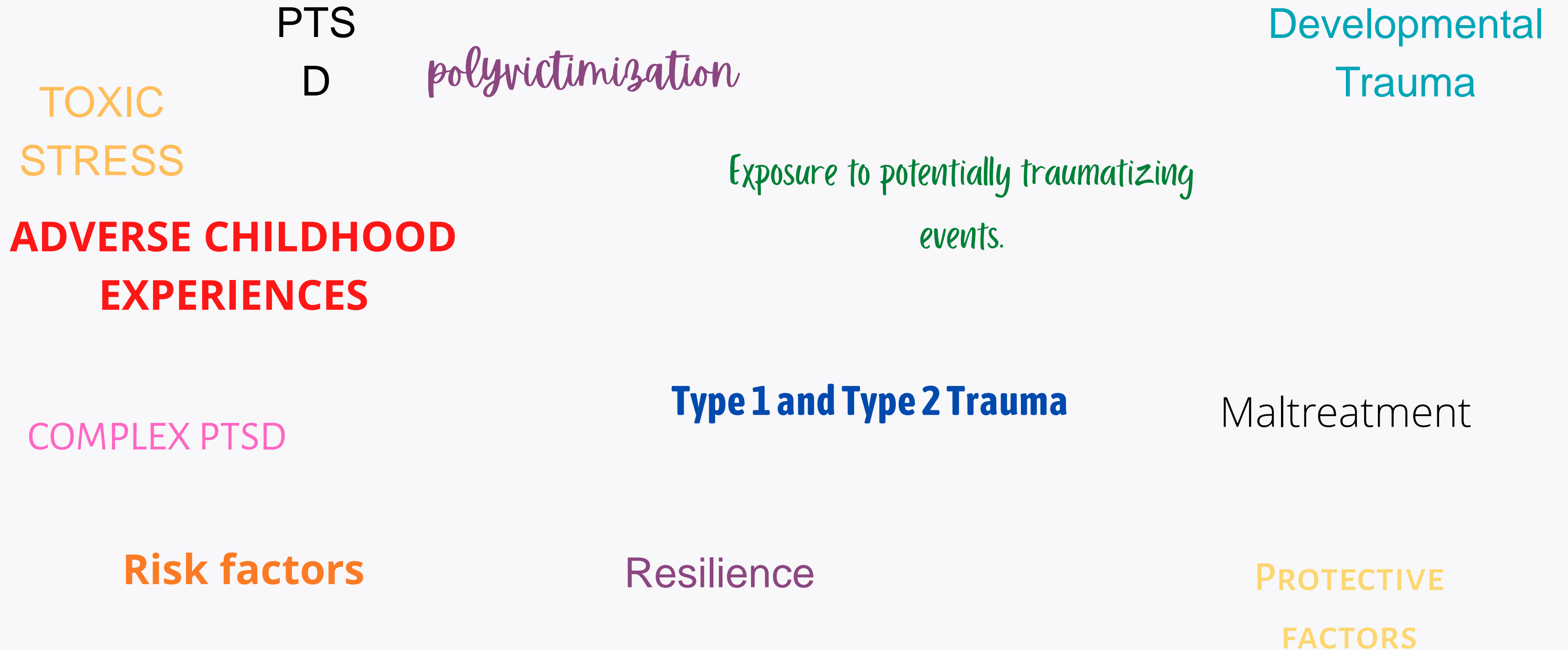
1. The relevance of trauma to FMHA
2. Beyond a buzzword: what does “trauma-informed” assessment even mean?
3. Identifying and managing trauma-related symptoms
4. Interpersonal considerations: managing power differentials and forensic empathy
5. Evaluator as human: managing personal reactions

Learning Objectives

1. Describe how ACEs and trauma exposure are relevant to a variety of types of forensic assessments in criminal and civil realm
2. Operationalize what it means to take a trauma-informed approach to FMHA in terms knowledge base, stance and procedures
3. Develop increased insight into the interpersonal and intrapersonal aspects of FMHA that are often overlooked but can influence evaluatee participation and our formulation of findings.

- Goldenson, J. (in preparation) Trauma-informed forensic mental health assessment of plaintiffs alleging harms from historical abuse. In G Young, T. Bailey, T., L. Giromini, J Soble, R. Rogers, & B Levitt Eds. *Handbook of Psychological Injury and Law*. Cham, Switzerland: Springer Nature
- Goldenson, J. & Guitheil, T. (2023). Forensic Mental Health Professionals' Unprocessed Emotions as an Often-Overlooked Form of Bias. *Journal of the American Psychiatry and the Law*, 51(4). Advanced Online Publication.
- Goldenson, J., Brodsky, S.L., & Heilbrun, K. (2023). Collateral Consequences for Third-Party Interviewees in Forensic Contexts. *Journal of the American Psychiatry and the Law*, 51(4). Advanced Online Publication
- Brodsky, S. & Goldenson, J. (2022). Feedback in forensic mental health assessment, *Journal of Forensic Psychology Research and Practice*, 1-13.
- Goldenson, J., Brodsky, S., & Perlin, M. (2022). Trauma-Informed Forensic Mental Health Assessment: Practical Implications, Ethical Tensions and Alignment with Therapeutic Jurisprudence Principles. *Psychology, Public Policy and Law*, 28(2), 226–239.
- Goldenson, J., & Brodsky, S.L., (2022). Trauma-focused mitigation testimony in Capital Hearings. *Journal of American Academy of Psychiatry and the Law*. 50(1), 39-43.
- Goldenson, J. & Josefowitz, N., (2021). Remote Psychological Assessment in Civil Cases: Considerations for Experts Assessing Sequelae of Childhood Abuse. *Psychology, Injury, and the Law*, 14, 89-103.
- Goldenson, J., Kitollari, I., & Lehman, F. (2020). The Relationship Between ACEs, Resilience and Trauma- Related Psychopathology in Vulnerable Youth: Implications for Screening and Treatment. *The Journal of Child and Adolescent Trauma*, 14(1), 151-160.

LINGO!



ACES AND COMPLEX TRAUMAS AMONG CRIMINAL JUSTICE-INVOLVED (CJI) INDIVIDUALS



"Victims" and "offenders" historically viewed as dichotomous in legal contexts but sometimes two sides of the same coin.

Common thread among CJI individuals is exposure to maltreatment and ACES (Allely & Allely, 2020; Baglivio et al., 2014).

Rates of historical abuse are particularly high among CJI women (Gannon & Cortoni, 2010; Goldenson et al., 2007), transgendered individuals (McCauley et al. 2018), and ethnic minorities (Barker, et al., 2015; Jäggi et al., 2016).



RELEVANCE OF ASSESSING EXPOSURE TO ADVERSITY AND TRAUMA ACROSS FORENSIC REFERRAL TYPES

CRIMINAL JUSTICE REALM

a) **Pre-trial**

- (defenses such as "insanity" or self-defense)
- Fitness to Stand Trial

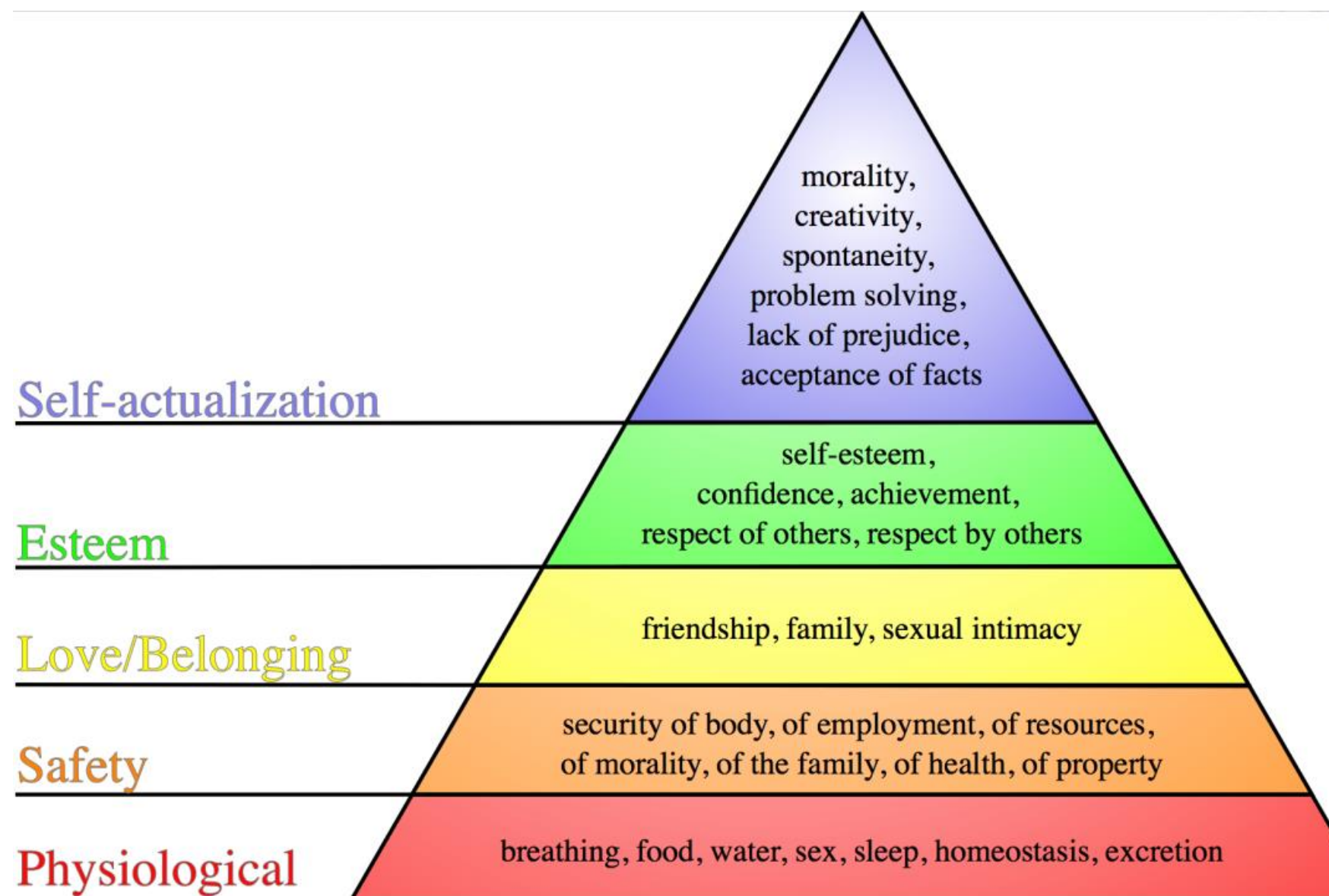
b) **Sentencing**

- Mitigation/moral culpability in death penalty cases and beyond - what is the context of this person's lived experience?
- Risk assessment
- Juvenile Transfer Cases



MITIGATION AND MASLOW

(Goldenson & Brodsky, 2021)



"...for some people, developing the biological mechanisms to become resilient and stable is a luxury. When people are exposed to chronic maltreatment, their focus is basic safety. When facing threat, such people are primed to protect themselves and survive. Sometimes this protection is with a gun; sometimes it is with gang affiliation."

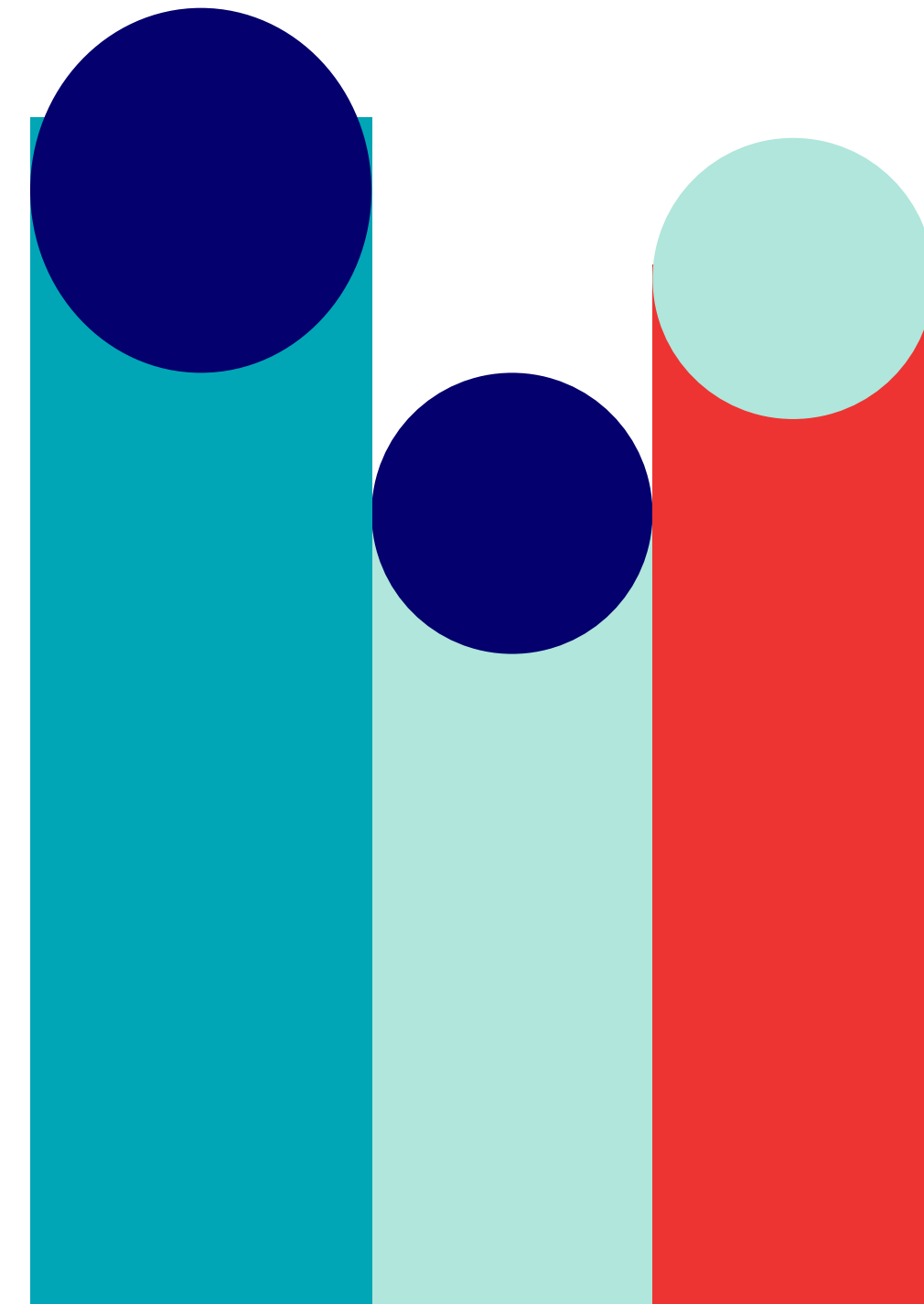
RELEVANCE CNT.

A history of trauma and adversity can have the potential to impact:

- Examinee's presentation and capacity to engage in the interview
- Responses on psychological testing
- Behaviors with counsel and in court

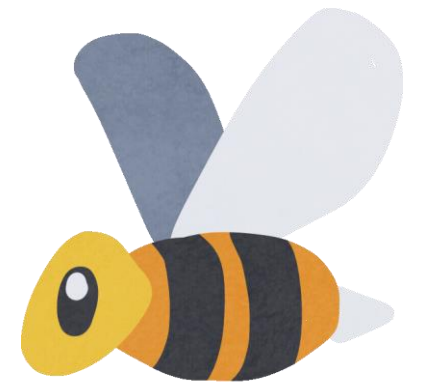
A lack of adequate training and awareness on the impact of trauma can be highly problematic and result in:

- Re-traumatization during the assessment
- Inaccurate diagnoses
- Ineffective recommendations
- Can impact the court's understanding and legal outcomes.



BEYOND A BUZZWORD: TI-FMHA

(Goldenson et al., 2022; Goldenson, in press)



1. Evaluators develop familiarity with general literature related to the biopsychosocial impact of trauma, including, but not limited to the ways in which trauma can shape brain development, psychological functioning, and social functioning;
2. develop familiarity related to trauma as it applies to forensic populations and psycho-legal issues;
3. ** utilize this trauma-related knowledge towards the aim of adopting a stance and procedures that promote optimal evaluatee engagement in the assessment, reduce the likelihood of re-traumatization, and lead to more accurate results and opinions

Trauma-Informed Principle	Application
Transparency	Ensure consent is truly informed and outline risks of assessment, limits to confidentiality, and the evaluator's duty and role.
Choice	Provide evaluatees with choices when possible; e.g., about where to sit, the order of content covered, when to take breaks.
Supporting Safety/Noticing Shifts in Arousal	Notice shifts in evaluatee' arousal to provide support for trauma-related diagnosis and to inform pacing of the assessment to reduce likelihood of emotional decompensation/traumatization.
Collaboration/ Judicious use of Empathy	Remain attuned to evaluatee's strong emotional reactions and judiciously use empathy to convey respect and maintain rapport while maintaining the required boundaries for a forensic (versus therapeutic) stance.
Managing Personal Reactions	Evaluators should remain attuned to their own emotional reactions whether born from their personal history, interpersonal enactments with the plaintiff during the assessment, or a combination thereof.

Domain	Considerations
Psychological Screening and Testing	<p>Use of screening and careful interviewing to assess exposure to multiple forms of trauma and adversity of the life-course.</p> <p>Advanced interpretation of psychological testing and staying current with research.</p>
Diagnosis	Understanding trauma beyond DSM-5TR and challenging diagnostic rigidity.
Individual in Context	The importance of situating the evaluatee in context including understanding culture and various forms of marginalization.

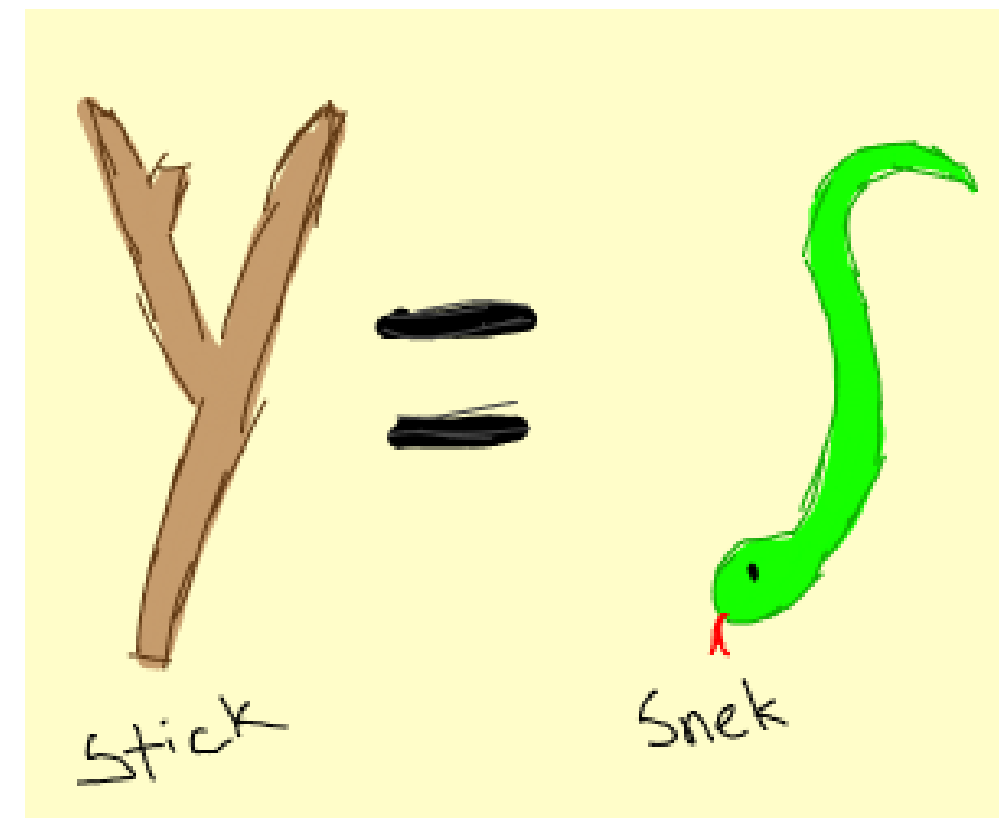
3. Identifying and Managing Trauma-Related Symptoms



- Nonverbal trauma symptoms can be misconstrued by mental health evaluators and legal personnel who are not comprehensively trained in trauma and its sequelae.
- Trauma-affected evaluatees can have difficulty identifying and articulating their experiences due to avoidance, shame, belief systems about the trustworthiness of others, dissociation or altered states of arousal.
- Attunement not only to what is said but also non-verbal behaviour is essential in order to pace in the interview and garner quality data.

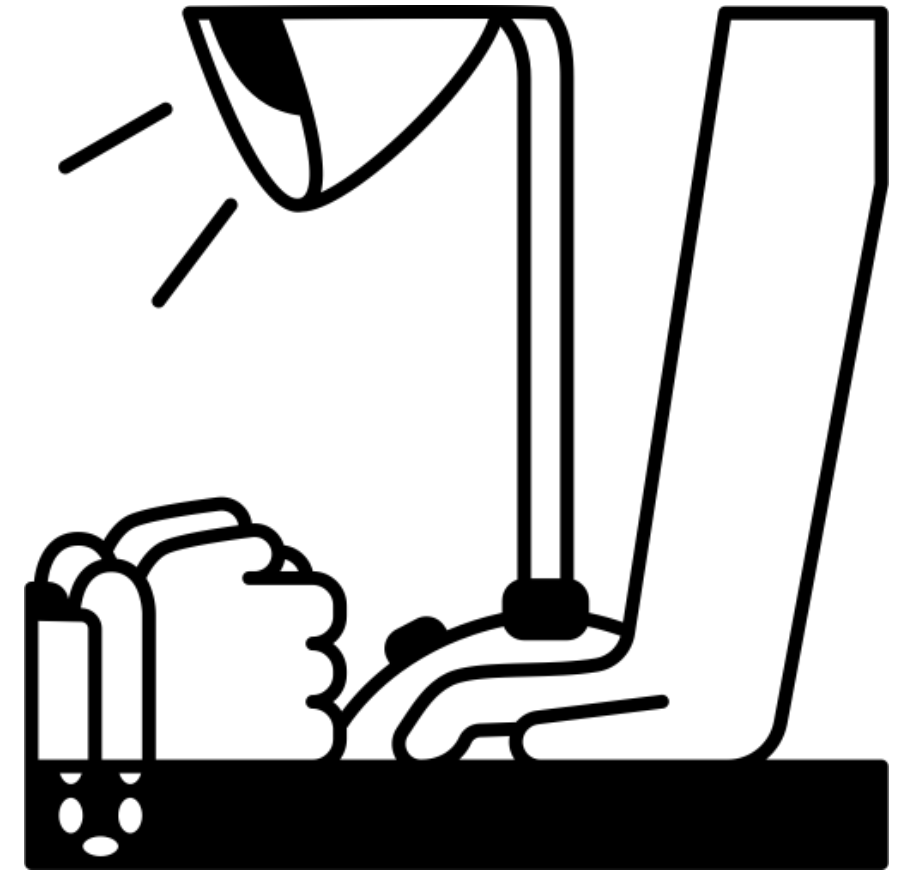
SURVIVAL CIRCUITS

Each time trauma-related neural networks are activated, there can be a subjective sense of threat to life, as if the danger were occurring again in present time (Le Doux, 2002).



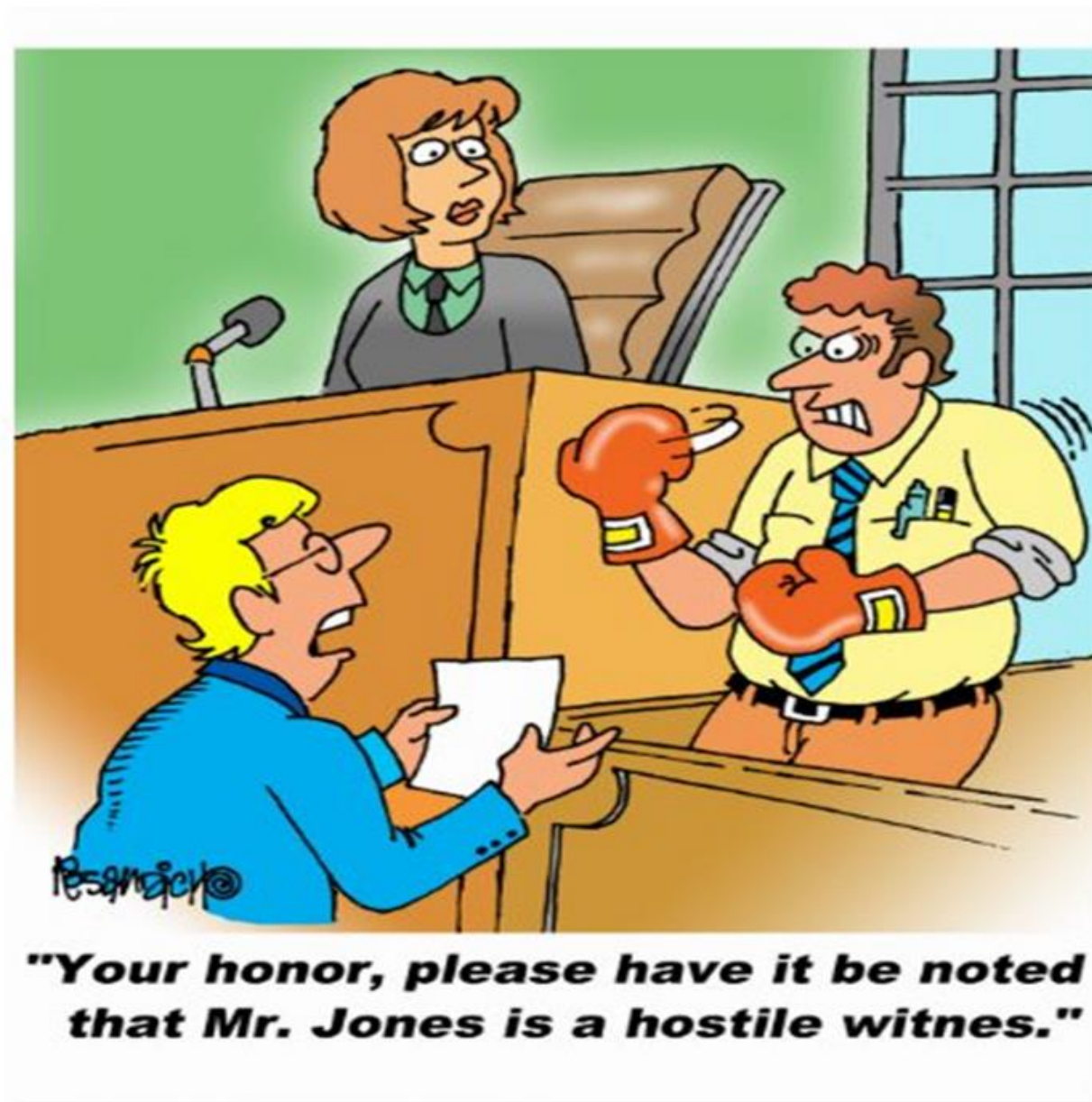
SURVIVAL CIRCUITS IN FORENSIC CONTEXTS

(Goldenson et al., 2022)



COMMON AND PROBLEMATIC MISINTERPRETATIONS:

Hyperarousal = "Antisocial"



COMMON AND PROBLEMATIC MISINTERPRETATIONS:

Hypoarousal and/or Emotional Numbing= Callousness



COMMON AND PROBLEMATIC MISINTERPRETATION:

Poor Narrative Memory = Poor Credibility

(Brewin, 2018)

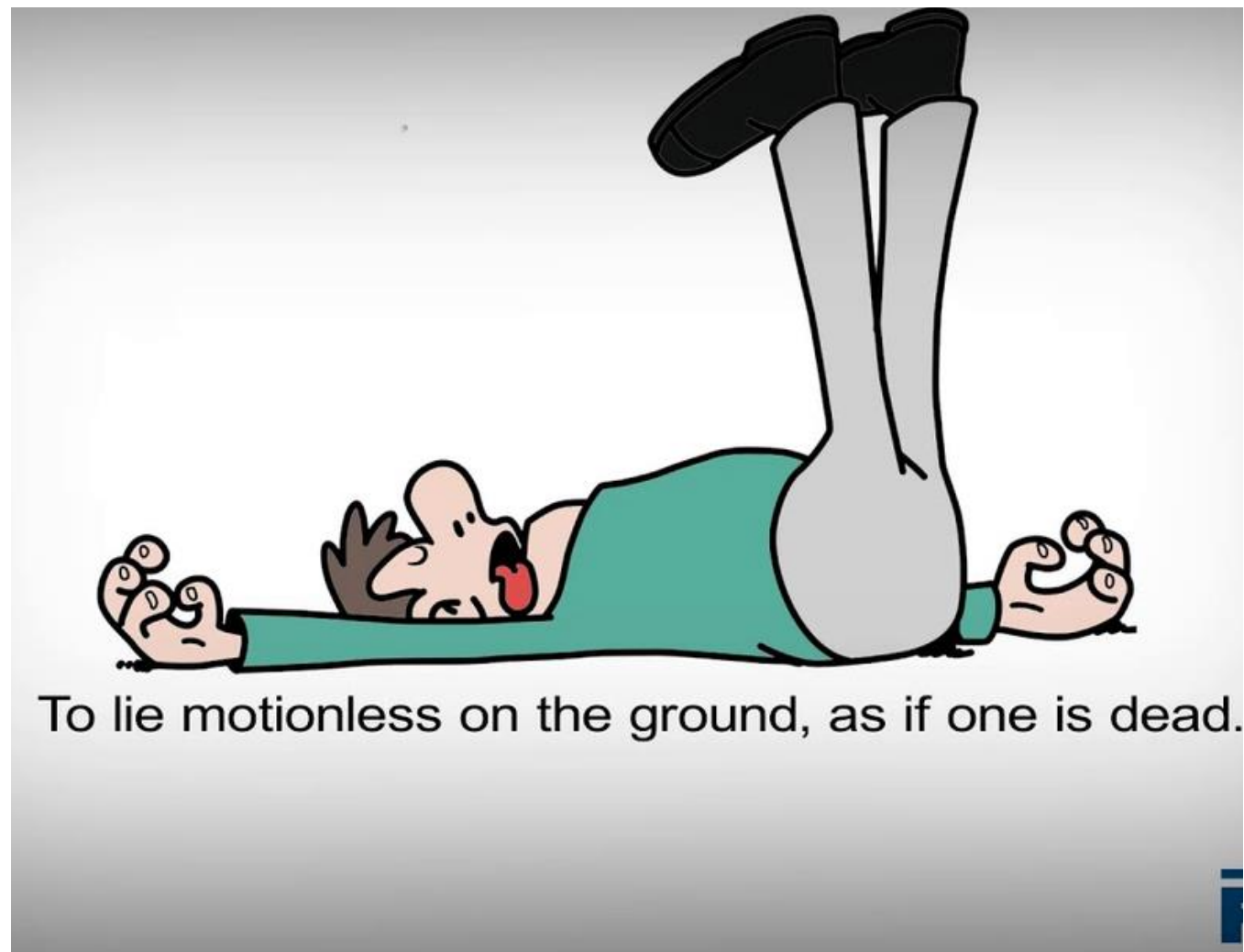


CUES FOR DETECTING HYPERAROUSAL



COGNITION	PHYSIOLOGY AND AFFECT	PHYSICAL AND SOCIAL BEHAVIOURS
<ul style="list-style-type: none">-Rigid thinking-Poorer reality testing (beliefs about threat in present moment)- Disorganized thinking	<ul style="list-style-type: none">-Rapid heartbeat- Irritability- Fight/Flight or Freeze- Sensory memories related to a traumatic event-Emotionally reactive, vigilant	<ul style="list-style-type: none">-Changes in eye contact (intense gaze or averted)- Rapid and or clipped speech-Psychomotor agitation (foot tapping, hand-ringing)- Relational mis-attunement/trouble connecting

CUES FOR DETECTING HYPOAROUSAL



COGNITION	PHYSIOLOGY AND AFFECT	PHYSICAL AND SOCIAL BEHAVIOURS
<ul style="list-style-type: none">-Reduced orientation to past, <u>present</u> or future.-Lack of initiative-Lack of spontaneous thought	<ul style="list-style-type: none">-Numb- Flat- Sleepy	<ul style="list-style-type: none">-Slowed movement/immobilized,- Paucity of/slowed speech-Poor eye contact /spacey- Relationally disconnected-Constricted/passive

CUES FOR DETECTING DISSOCIATION



Dissociation can occur in a hyper or hypoaroused state.

Evaluator can stay attuned to prolonged blank staring, losing track of the conversation or needing questions to be re-stated (Brand et al., 2017)

AND IF CUES CONFUSE, ASK...

How do you feel about coming in today?

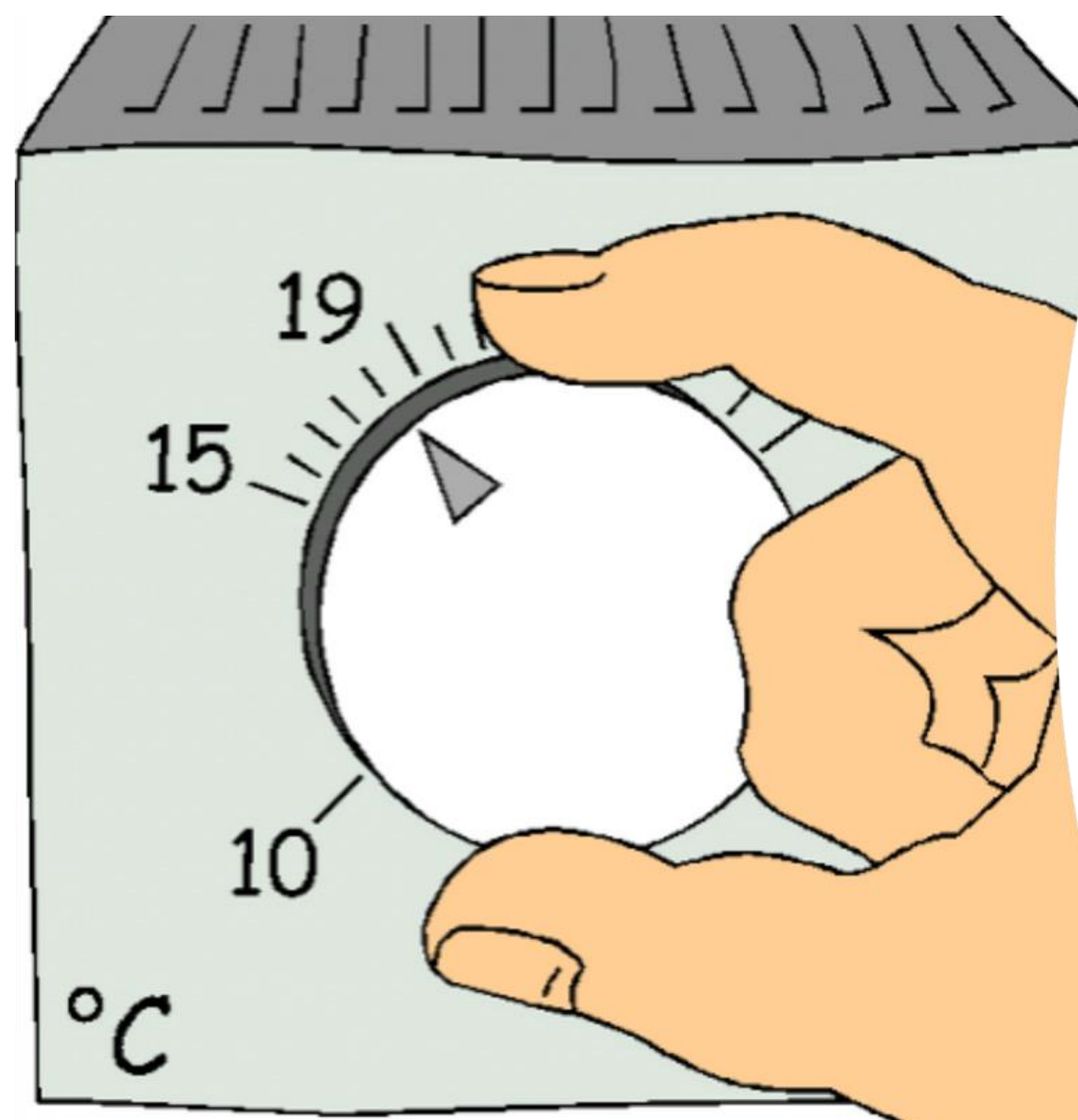
*How does today compare to an average day in terms of your
(thoughts/mood/sleep/sensations in your body)*

*It seems like I lost you for a second there, what was your experience in
these last few moments? (e.g. what were you thinking? What were you
feeling? What was going on inside you?)*



MANAGING EXAMINEE DISTRESS: PACING

Goldenson et al, 2022; 2023



4. Interpersonal considerations: managing power differentials and forensic empathy

5 Guiding Principles (Harris & Fallot, 2001; SAMHSA, 2014)

Safety

Facilitating environments that are experienced as physically and emotionally safe

Trust

Engaging in a transparent fashion

Collaboration

Using feedback and getting an individuals weigh in/expressed preferences

Choice

Providing people choice to the extent this is possible

Empowerment

Helping give voice to provide some degree of power and control

ACKNOWLEDGING AND MANAGING POWER IMBALANCES

(Goldenson et al., 2022)

- Context of a FMHA is quite different from attorney-client relationship and definitely different than treatment
- Examinees are faced with criminal sanctions, assessments can be court ordered, and the FMHE is providing neither help nor advocacy
- Power differentials are magnified when assessing individuals who are incarcerated and/or come from marginalized backgrounds

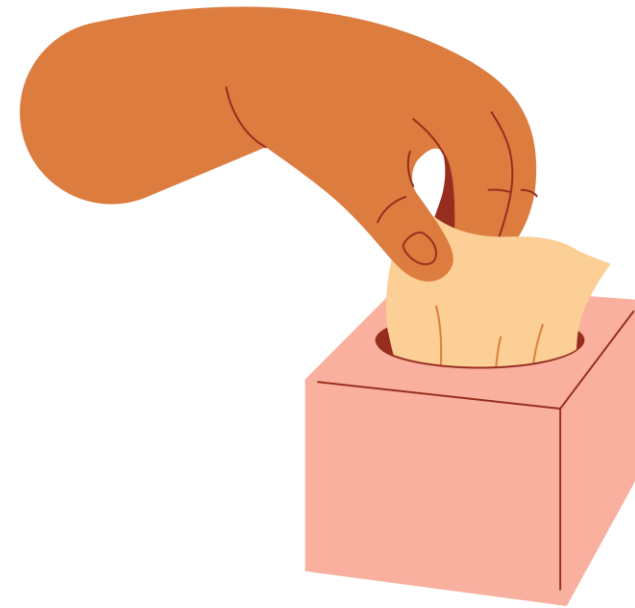


ENHANCING TRANSPARENCY THROUGH TRULY INFORMED CONSENT



- Enhancing **trustworthiness** through **transparency** and **choice** (Harris & Falloot, 2001)
- Securing consent repeatedly when there is suspected dissociation/altered states of arousal.
- Literacy could create challenges with written consent (don't assume people can read).

SMALL OPPORTUNITIES FOR CHOICE AND RESPECT FOR DIGNITY



- If in the office, providing choice (where to sit, take breaks as needed), and having some basic comforts available (tissue, water).

EMPATHY IN FORENSIC CONTEXTS?

"Don't mislead examinees or encourage false trust!"

"You are not the treatment provider!"

Keep firm boundaries!



"Develop rapport!!"

"Narrow power differentials!"

"Take care to avoid re-traumatization"

THE DOUBLE BIND

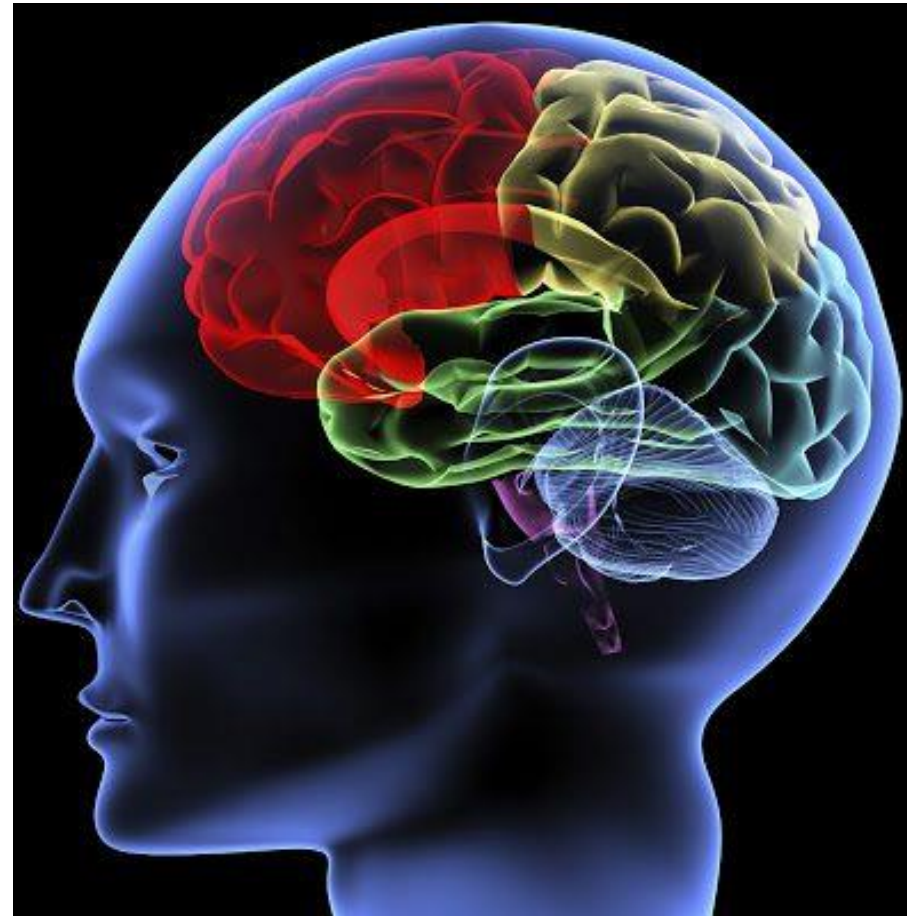
On one hand we need sufficient empathy to build enough trust to allow evaluatees to be comfortable disclosing their history, and in some cases to assist them to feel sufficiently safe to stay regulated.



On the other hand, to be truly trustworthy, we must openly and sometimes repeatedly acknowledge that we are not an advocate, or a therapist and we cannot provide assurance that the assessment will be helpful

EMPATHY: A MULTI-DIMENSIONAL CONSTRUCT

(Brodsky & Wilson, 2013; Goldenson et al., 2022)



1. Cognitive Empathy:

-To accurately understand and make sense of an examinee's experiences (Spaulding, 2017)

2. Affective Empathy:

-Feeling for and with the examinee (Maibom, 2017)

3. Reflective Empathy

- Can be verbally conveyed; for example, "that sounds very hard." Empathy can also be conveyed through vocal tone and facial expressions (Porges, 2009).

4. Self Awareness: Managing Our Personal Reactions

VICARIOUS TRAUMA



“The expectation that we can be immersed in suffering and loss daily and not be touched by it is as unrealistic as expecting to be able to walk through water without getting wet.” - Remen, 2006

EVALUATOR "COUNTERTRANSFERENCE" AS A FORM OF BIAS?

(Goldenson & Gutheil, 2023)



Whether from:

- a) vicariously traumatic experiences, or our own personal history; or
- b) reactions to an evaluatee because of their interpersonal presentation (which could be an adaptation to their historical experiences)

we can have strong conscious or unconscious emotional reactions that can impact our interactions with evaluatees and the formulation of our findings.

QUESTIONS WE MIGHT ASK OURSELVES (OR DISCUSS WITH A SUPERVISOR OR TRUSTED COLLEAGUE)



During the Assessment:

- *What am I experiencing (thinking, feeling, feeling in my body) as I sit with this evaluatee?*
- *Are these reactions impacting my capacity to develop rapport? (Conversely, is there too much rapport?)*
- *Are there questions I am not asking owing to my own discomfort?*

When Formulating/Report Writing:

- *Do I have any personal feelings or reactions related to my views/experiences and history that might be impacting how I understand this person?*



We are the instrument that gathers data from evaluatees and in turn, interprets and makes sense of these data.

Our interpersonal skills, clinical judgement, and self-awareness are likely as important in forensic contexts as they are in clinical contexts, especially given the complexity of the clients whom we assess.

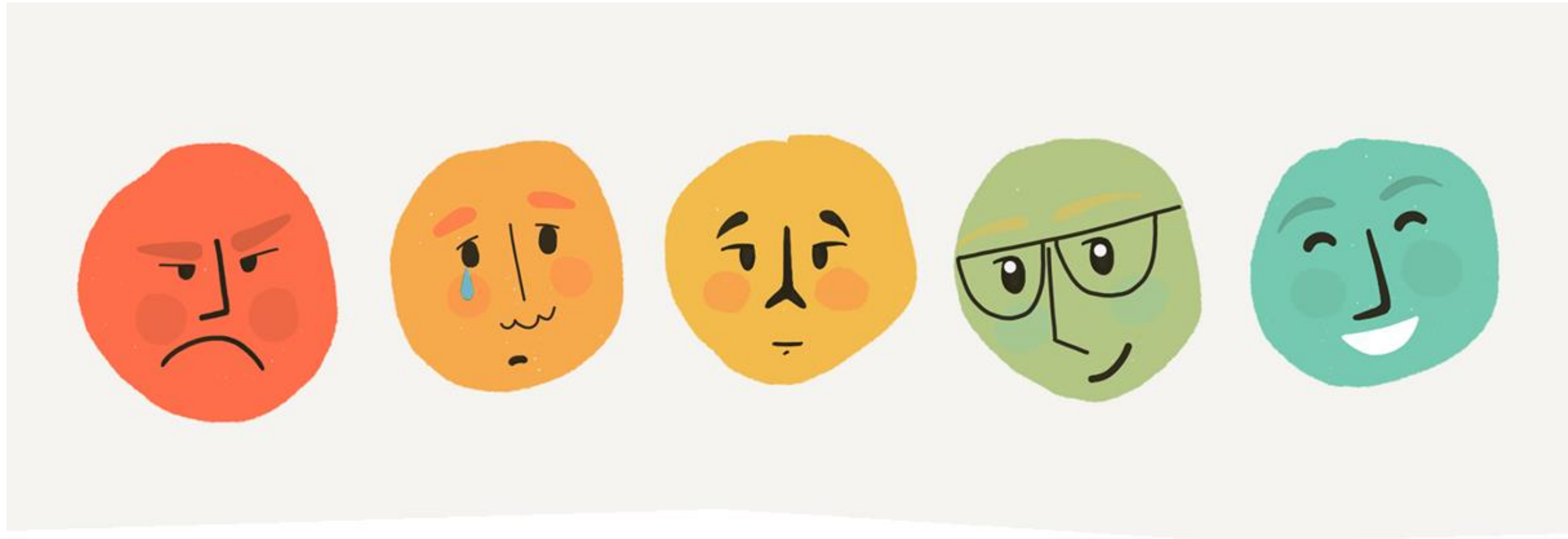
Just as emotions and personal reactions might impede our assessments, self awareness and interpersonal effectiveness could enhance our work.

KEY TAKE AWAYS



- ACES and Trauma are highly relevant to forensic assessment work. FMHP would be well served to understand the biopsychosocial impact of trauma.
- This knowledge can be leveraged not only in treatment but also to create ASSESSMENT procedures and conditions that are humane and enhance the quality of our data and formulation of our findings.
- Forensic evaluators are human and fallible. Self awareness about our emotional reactions (and many other biases) is critical, and perhaps particularly so when working with people who are impacted by trauma.

YOUR THOUGHTS !?



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References

Allely, C. S., & Allely, B. (2020). Posttraumatic stress disorder in incarcerated populations: Current clinical considerations and recommendations. *Journal of Criminal Psychology*, 10(1), 30–42. <https://doi.org/10.1108/JCP-09-2019-0044>

American Psychological Association. (2013). Specialty guidelines for forensic psychology. *The American Psychologist*, 68(1), 7–19. <https://doi.org/10.1037/a0029889>

American Psychological Association. (2017). Ethical principles of psychologists and code of conduct. <https://www.apa.org/ethics>

Baglivio, M. T., Epps, N., & Swartz, K. (2014). The prevalence of adverse childhood experiences (ACE) in the lives of juvenile offenders. *Journal of Juvenile Justice*, 3(2), 1–23.

Barker, B., Alfred, G. T., Fleming, K., Nguyen, P., Wood, E., Kerr, T., & DeBeck, K. (2015). Aboriginal street-involved youth experience elevated risk of incarceration. *Public Health*, 129(12), 1662–1668. <https://doi.org/10.1016/j.puhe.2015.08.003>

Brand, B. L., Schielke, H. J., & Brams, J. S. (2017). Assisting the courts in understanding and connecting with experiences of disconnection: Addressing trauma-related dissociation as a forensic psychologist, Part I. *Psychological Injury and Law*, 10(4), 283–297. <https://doi.org/10.1007/s12207-017-9304-8>

Brewin, C. R. (2007). Remembering and forgetting. In M. J. Friedman, T. M. Keane, & P. A. Resick (Eds.), *Handbook of PTSD: Science and practice* (pp. 116–134). Guilford Press.

Brodsky, S. L., & Wilson, J. K. (2013). Empathy in forensic evaluations: A systematic reconsideration. *Behavioral Sciences & the Law*, 31(2), 192–202. <https://doi.org/10.1002/bsl.2042>

Gannon, T. A., & Cortoni, F. (Eds.). (2010). *Female sexual offenders: Theory, assessment, and treatment*. Wiley. <https://doi.org/10.1002/9780470666715>

Goldenson, J., & Brodsky, S.L., (2022). Trauma-focused mitigation testimony in Capital Hearings. *Journal of American Academy of Psychiatry and the Law*. 50(1), 39-43.

Goldenson, J., Brodsky, S. L., & Perlin, M. L. (2022). Trauma-informed forensic mental health assessment: Practical implications, ethical tensions, and alignment with therapeutic jurisprudence principles. *Psychology, Public Policy, and Law*, 28(2), 226–239. <https://doi.org/10.1037/law0000339>

Goldenson, J., Geffner, R., Foster, S. L., & Clipson, C. R. (2007). Female domestic violence offenders: Their attachment security, trauma symptoms, and personality organization. *Violence and Victims*, 22(5),532–545. <https://doi.org/10.1891/088667007782312186>

Goldenson, J. & Guitheil, T. (2023). Forensic Mental Health Professionals’ Unprocessed motions as an Often-Overlooked Form of Bias. *Journal of the American Psychiatry and the Law*, 51(4). Advanced Online Publication. DOI: <https://doi.org/10.29158/JAAPL.230077-23>

Goldenson, J., & Brodsky, S.L., (2022). Trauma-focused mitigation testimony in Capital Hearings. *Journal of American Academy of Psychiatry and the Law*. 50(1), 39-43.

Harris, M., & Fallot, R. (2001). *Using trauma theory to design service systems*. Jossey-Bass/Wiley.

Jäggi, L. J., Mezuk, B., Watkins, D. C., & Jackson, J. S. (2016). The relationship between trauma, arrest, and incarceration history among black Americans: Findings from the National Survey of American Life. *Society and Mental Health*, 6(3), 187–206. <https://doi.org/10.1177/2156869316641730>

LeDoux, J. E. (2002). *The synaptic self: How our brains become who we are*. Viking Press.

McCauley, E., Eckstrand, K., Desta, B., Bouvier, B., Brockmann, B., & Brinkley-Rubinstein, L. (2018). Exploring healthcare experiences for incarcerated individuals who identify as transgender in a southern jail. *Transgender Health*, 3(1), 34–41. <https://doi.org/10.1089/trgh.2017.0046>