

Trauma-Informed Practices for Criminal Courts

Implementation Opportunities

by Sarah Blanco, Taylor DeClerck, Alejandra Garcia,
Amber Moe, Karen Otis, and Danielle Pugh

Center
for
Justice
Innovation



State Justice Institute

Authors

May 2024

Sarah Blanco
Center for Justice Innovation

Amber Moe
Center for Justice Innovation

Taylor DeClerck
Center for Justice Innovation

Karen Otis
Center for Justice Innovation

Alejandra Garcia
Center for Justice Innovation

Danielle Pugh
Center for Justice Innovation

Acknowledgments

The authors would like to thank the State Justice Institute for its support in the development of this publication. The authors would like to thank the criminal court practitioners that provided input and feedback through surveys, interviews, and participation in the TIPS Lab Symposium. The authors would also like to thank Trauma-Informed Oregon, the DLR Group, and all attendees and panelists of the TIPS Lab Symposium for their input and guidance on trauma-informed practices for criminal courts.

This publication was developed under grant number SJI-22-P-041 from the State Justice Institute. The points of view expressed are those of the author(s) and do not necessarily represent the official position or policies of the State Justice Institute.

For More Information

Alejandra Garcia
Associate Director of Recovery and Reform
Center for Justice Innovation
garciaa@innovatingjustice.org

Center for Justice Innovation

520 Eighth Avenue
New York, NY 10018

p. 646.386.3100
f. 212.397.0985

innovatingjustice.org

Introduction ⁰⁵

TIPS Lab Background ⁰⁶

National Scan of Trauma-Informed Practices in Criminal Courts ⁰⁷

Survey Results ⁰⁷

Interviews and Literature Review ¹¹

TIPS Lab Symposium ¹²

Implementation Opportunities ¹²

Trauma Training for Court Staff ¹²

Vicarious Trauma/Burnout Prevention for Court Staff ¹³

Trauma-Informed Care for Court Users ¹³

Trauma-Informed Court Spaces and Practices ¹⁴

Next Steps ¹⁵

Endnotes ¹⁵

Introduction

The Trauma-Informed Practice Strategy Lab (TIPS Lab) was born out of the need to address trauma in criminal courts—an urgent need shown by statistics on the prevalence of violence and victimization in the United States. Trauma is here defined as a psychological and physiological response to an experience involving the threat of or actual sexual violence, serious injury and/or death.^[1] High rates of trauma in the general population are a result of not only interpersonal violence and abuse,^[2] but also natural disasters, historical trauma, serious accidents, exposure to war/combat, and other types of community violence that can often result in the compounding of these experiences, known as poly-victimization.

For defendants in criminal courts, the prevalence of trauma is estimated at twice the rate as that of the general population,^[3] and for female, transgender, and juvenile defendants, experiences of victimization are nearly ubiquitous.^[4] Research has shown that victimization and other traumatic experiences dramatically increase risk of involvement with the criminal legal system as a defendant.^[5] This increased risk can co-occur through several mechanisms: substance use spurred by trauma, which can lead to arrest and prosecution for drug-related crimes; coercion to engage in criminal activity by an abusive partner or exploiter; trauma symptoms such as emotional dysregulation, hypervigilance to threat, and angry outbursts that increase risk for engaging in violent behavior and arrest; and utilization of violence as a survival strategy and learned behavior.^[6]

Involvement in the system itself, including arrests, arraignments, and jail stays, are also opportunities for re-traumatization.

Individuals with trauma in the criminal court system may experience symptoms such as flashbacks, overwhelming emotional and physiological responses, numbing, and dissociation that both affect their well-being and interfere with their participation in the criminal legal process. Trauma in the criminal legal system can look like attempts to gain a sense of control and safety; difficulty with attention, concentration, and memory; guardedness, and/or difficulty trusting court practitioners. Additionally, criminal court practitioners may have had their own traumatic experiences and can also be traumatized, or re-traumatized, which can affect their well-being as well as their effectiveness as a practitioner.^[7] As a result, when criminal court practitioners neglect to implement trauma-informed practices, defendants are often trapped in the revolving doors of the system, experiencing repeated cycles of arrest and prosecution. Practitioners who miss opportunities for support and intervention can compromise the consistency and effectiveness of criminal court practice, resulting in criminal court processes that are distressing, re-traumatizing, and can even unintentionally cause psychological harm to defendants.^[8]

Despite there being an abundance of available training regarding trauma-informed practice, implementation support for these practices in criminal courts is virtually nonexistent. This lack of support for actual implementation of the trauma-informed prac-

tices greatly decreases the likelihood that one-time attendance at a training workshop will have a positive impact on day-to-day criminal court practice. Ultimately, criminal courts find themselves without the tools or support to build out the basic infrastructure needed to implement trauma-informed best practices and policies, and state and local court training resources are not available or

equipped to meet this need. Practitioners may be less motivated or inclined to implement lessons learned from trainings if they are not provided with the support or leadership buy-in needed for lasting change. The TIPS Lab meets this need by leveraging best practices to support criminal court implementation efforts in developing concrete and actionable steps towards implementation.

TIPS Lab Background

The Center for Justice Innovation (the Center), with funding from the State Justice Institute (SJI), is leading the development of the TIPS Lab project. The Center is a non-profit organization that seeks to create a more equitable justice system by designing and implementing operating programs, performing original research, and providing reformers around the world with the tools they need to launch new strategies. The Center has a team of experienced technical assistance providers leading the project, including subject matter experts in behavioral health treatment and judicial education.

The goal of TIPS Lab is to bridge the gap between training and implementation of trauma-informed practices to specifically support criminal court practitioners, who receive less specialized support than their counterparts in specialty courts (i.e., community court, drug treatment court, juvenile court). TIPS

Lab will document and support emerging and leading trauma-informed practices in criminal courts with special attention to the role court staff, administrators, and judicial officers play.

TIPS Lab launched in 2023 and has three distinct phases: Phase One of the project focused on conducting a national inventory of both the major challenges and opportunities that criminal courts face when implementing trauma-informed practices. Phase Two included an in-person Symposium, as well as the development of a forthcoming TIPS Lab Blueprint to guide courts in their applications of trauma-informed practices. Phase Three will focus on the practical application of the TIPS Lab Blueprint through providing intensive technical assistance to a cohort of four to six diverse criminal court jurisdictions across the United States.

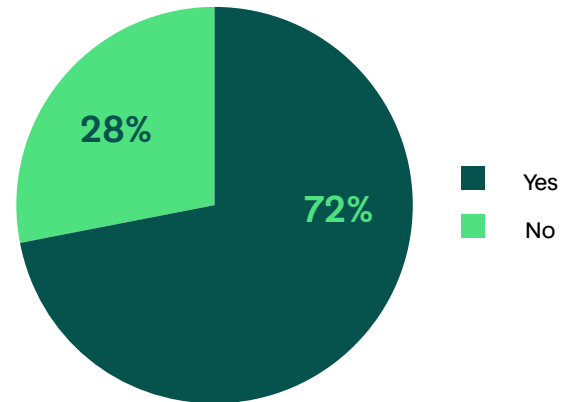
National Scan of Trauma-Informed Practices in Criminal Courts

In 2023, Center staff completed Phase One of the project, conducting a national scan of courts currently using trauma-informed practices, as well as a literature review of relevant research and publications related to court-based trauma responses. The national scan included a survey for criminal court staff (i.e., judges, clerks, coordinators, court officers) that was disseminated through the Center’s and SJI’s national channels, as well as individual follow-up interviews with a dozen criminal court practitioners across the country. The survey was designed around four practice domains: trauma training for criminal court staff; trauma-informed court space and practices; vicarious trauma/burn-out for court staff; and trauma-informed care for criminal court users. The survey yielded 108 responses from 20 states. The majority of respondents were judges, indicating that judicial leadership is still integral to court-based operations, and that more can be done to ensure trauma-informed care is a priority for other court-based staff, such as clerks and court officers. Additionally, 39% of respondents work outside of specialty courts, suggesting that the TIPS Lab has room to reach a broader criminal court audience. Highlights from the survey responses are presented here, with data specifically from non-specialty court respondents.

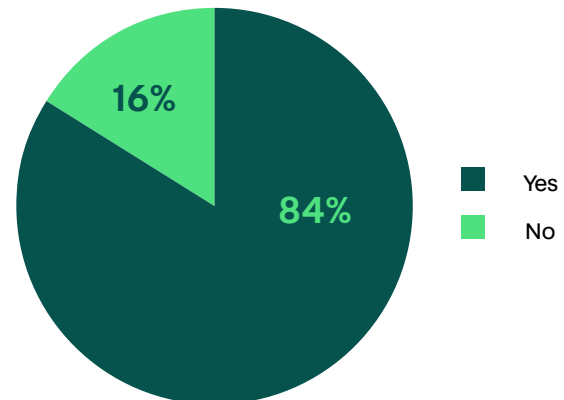
Survey Results

Domain 1: Trauma Training for Criminal Court Staff

Attended Training about Trauma or Trauma-Informed Practices



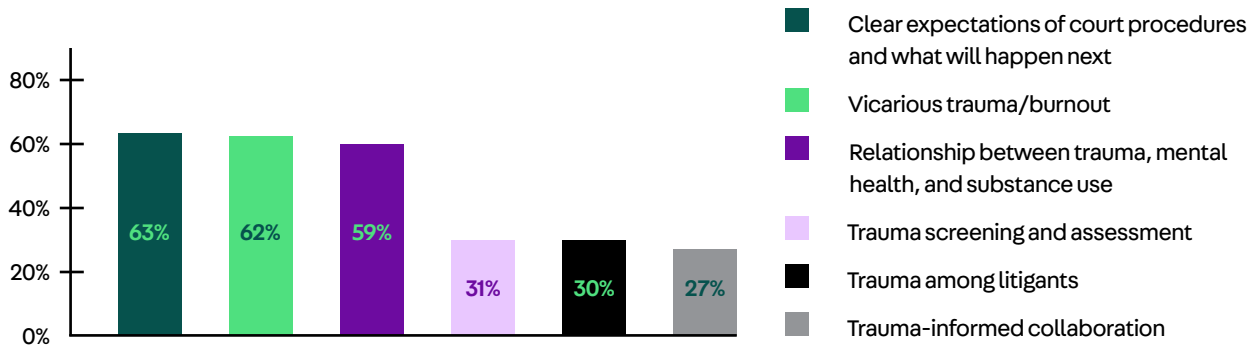
Applied Practice Change as a Result of Training



Most survey respondents who work in general criminal courts (non-specialty courts) indicated they have attended training related to trauma or trauma-informed practices. The majority also self-report applying practice changes as a result, although the survey did not explore the range or depth of the changes applied.

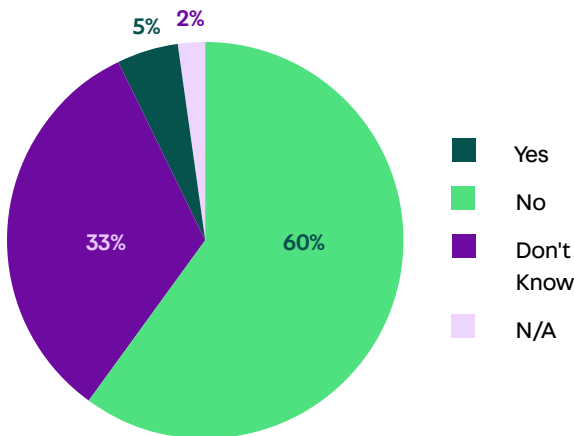
The most common training topics for all respondents (both criminal court and specialty courts) reported were adverse childhood experiences, vicarious trauma/burnout, and the relationship between trauma, mental health and substance use. The least common were trauma screening and assessment, trauma among litigants, and collaboration, indicating a need for more litigant-focused training.

Common Training Topics

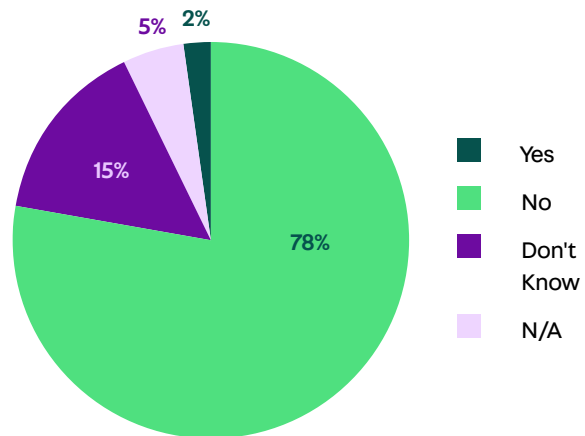


Domain 2: Trauma-Informed Practices in Criminal Court

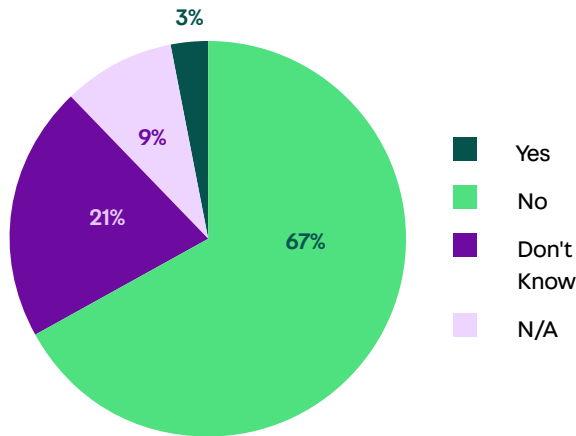
Written Policies that Guide Trauma-Informed Practice



Evaluated Trauma-Informed Practices

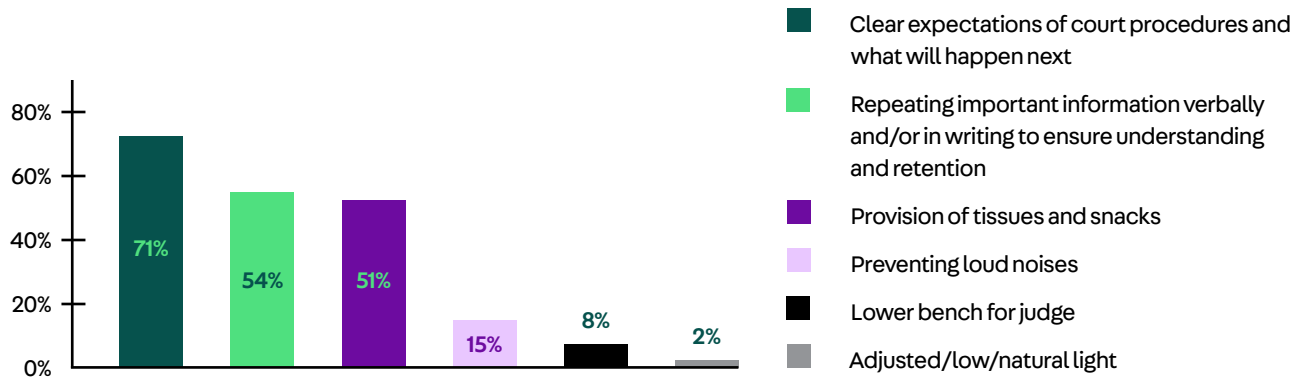


Received External Support in Applying Trauma-informed Practices (e.g. Consultant, Technical Assistance)



The majority of criminal court respondents indicated they do not have written policies that guide trauma-informed practice, nor have they evaluated those practices, or received external support to do so. The TIPS Lab is designed to help fill these gaps by providing courts with a blueprint, practical recommendations, and technical assistance for implementing policies and procedures.

Common Applied Trauma-Informed Practices

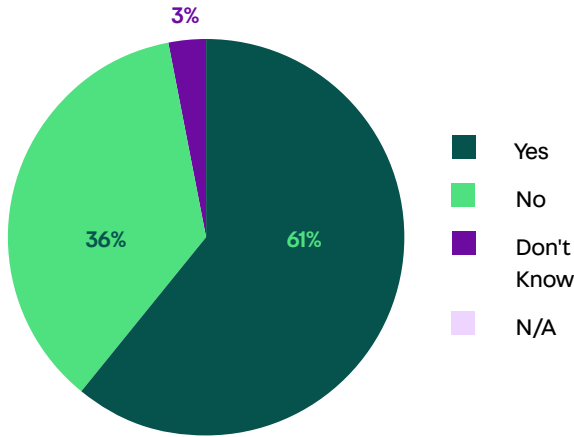


Among all respondents (criminal court and specialty court), the most commonly applied trauma-informed practices were related to procedural justice, such as clear explanations of procedures, and repeating important information. Practices that were the least common include practices related to physical/spatial adjustments.

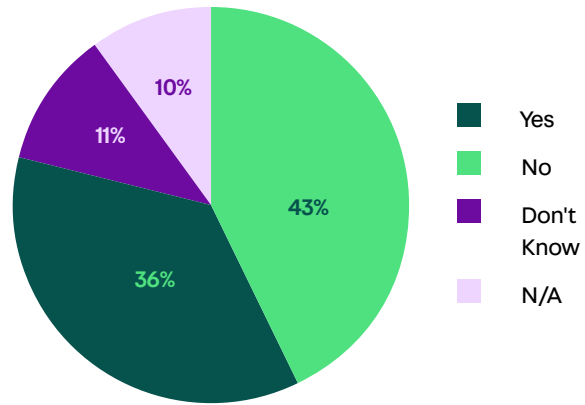
Although most criminal court respondents report having attended training on vicarious trauma and burnout, the majority have not applied those learnings to their courts.

Domain 3: Vicarious Trauma/Burnout for Court Staff

Training on Vicarious Trauma and/or Burnout

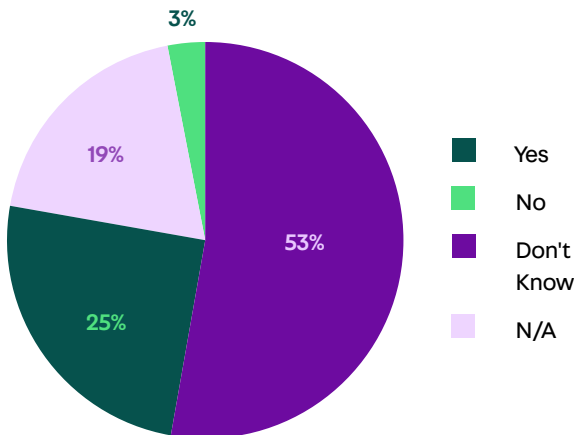


Applied Practices or Policies to Address or Prevent Vicarious Trauma/Burnout

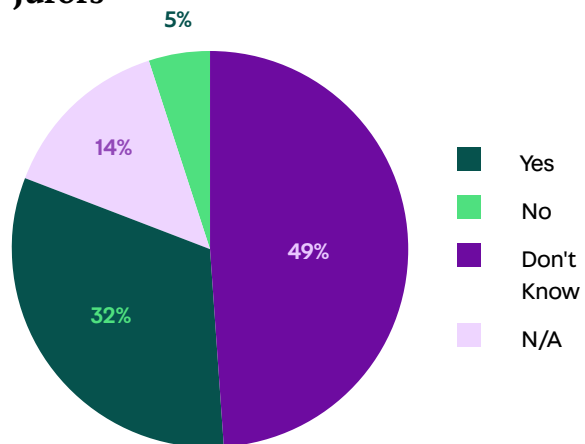


Domain 4: Trauma-Informed Care for Criminal Court Users

Screen Litigants for Trauma



Provide Trauma-Informed Care for Jurors



19% of criminal court respondents (non-specialty court) indicated they screen litigants for trauma, and 14% report providing trauma-informed care for jurors. All court users may have a history of trauma, and courts can make proactive efforts to screen and connect court users to trauma-informed care.

concentrated their information based on the framework of the Substance Abuse and Mental Health Services Administration (SAMHSA) as a foundational source for trauma-informed approaches.

Interviews and Literature Review

After reviewing survey results, Center staff identified individuals with whom to conduct follow-up interviews. These interviews were held in the spring and summer of 2023 with criminal court judges, court coordinators, attorneys, and administrators. These interviews allowed space to discuss trauma-informed practices in depth, including the need to expand practices, the difficulties that practitioners overcame to achieve new policies, and persistent obstacles faced toward implementation.

Center staff also conducted a literature review consisting of a collection of articles and literature reviews by judicial officers, trauma specialists, attorneys, and researchers on trauma-informed approaches. The review of literature indicated that while criminal courts lack trauma awareness compared to their juvenile and problem-solving court counterparts, there are several practices that can be transferred to adult criminal court settings. Such practices relate to courthouse/courtroom environment, communication style, transparency of court procedures and processes, and mitigating vicarious trauma among court staff and actors. The literature review also indicated that many sources

TIPS Lab Symposium

In November 2023, Center staff convened 37 criminal court practitioners, academics, and other interested groups to share ideas, lessons learned, and discuss challenges to implementation of trauma-informed practices. The TIPS Lab Symposium spanned a day and a half day and was hosted in Denver, Colorado. Individuals applied to attend the symposium and were selected according to their ability to contribute to conversations and idea-sharing around trauma-informed practices in criminal courts.

The symposium consisted of several presentations from field experts, including experts in trauma-informed organizational assessments, burnout prevention, and trauma-informed space design/architecture. Symposium attendees used a workbook to guide partner-based walk-and-talks and breakout group discussions around the aforementioned practice domains. Center staff learned an abundance of relevant information from the symposium and attendee feedback that will guide the development of the forthcoming blueprint.

Implementation Opportunities

Center staff designed the national scan and symposium around four practice domains: trauma training for court staff; vicarious trauma/burnout prevention for court staff; trauma-informed care for litigants; and trauma-informed court spaces and practices. Each of these domains reflects a distinct area of the criminal court field and is designed to account for both litigants and court staff, here defined as individuals employed by the court, i.e., judges, clerks, court security, etc. The following sections detail initial information-gathering from the Center's national scan and symposium along these four domains by showcasing opportunities for practice change and challenges to implementation. These opportunities and challenges are a sampling of what was identified and

discussed, and topics will be further explored in the forthcoming accompanying blueprint.

Trauma Training for Court Staff

Training for court staff on the impact of trauma and how to institute trauma-informed practices is a core component to ensuring criminal courts are trauma-responsive. The goal of trauma-informed training is to teach learners how to recognize the presence of trauma, acknowledge trauma's symptoms and effects on behavior, and avoid re-traumatizing individuals in the court system. Often, learners are left to navigate standalone training options and may not have the inter-

nal or external support needed to implement and sustain lessons learned.

High rates of staff turnover and capacity issues for courts have been barriers to providing and attending training consistently, especially for judges. Additionally, courts may struggle to find high-quality, and interactive trainings that improve learning retention and implementation. There is opportunity for further multi-layered trauma education for court staff, including a standardized training curriculum to guide learners through a structured approach to the material. Including local, culturally responsive leaders in delivering these trainings can help improve cultural awareness. Incentivizing trainings through certifications, or continuing education credits can also improve attendance.

Vicarious Trauma/Burnout Prevention for Court Staff

Vicarious trauma is a hazard of working within the court system. Vicarious trauma is the experience of being repeatedly exposed to traumatic information such as listening to crime victims' stories, and watching violent/traumatic video evidence, among other exposure.^[9] This repeated exposure may result in adverse reactions, such as compassion fatigue or burnout, in which criminal court practitioners may experience irritability, exhaustion, headaches, or difficulty concentrating. Lack of mitigation efforts to repeated exposure to trauma may also result in moral injury, in which individuals may witness or experience events that are not in line with their beliefs or morals, leaving them feeling guilty, ashamed, or angry.^[10] The effects of

moral injury and vicarious trauma may result in practitioners who are unable to effectively recognize and meet the needs of litigants, which can lead to repetitive cycles of system-involvement.

Criminal court practitioners need healthy work environments to help improve overall outcomes as they regularly navigate widely available traumatic material (e.g., case files, witness statements). Yet unrelenting workloads, where there is often no time to take lunch breaks or coverage for paid time off, lend to burnout. Burnout is also linked to high rates of turnover impeding efforts to provide consistent standards of trauma-informed care. Criminal courts have an opportunity to solicit and incorporate staff input and feedback into court operations to improve staff satisfaction. Employing agencies can encourage and model using PTO, and protecting staff time for administrative work so staff can effectively manage their schedules. Debriefing after stressful or traumatic courtroom experiences, and providing and promoting mental health care can also help prevent burnout.

Trauma-Informed Care for Court Users

Criminal courts serve a wide variety of individuals, including litigants, jurors, friends and family of litigants, among others, who may have a trauma history. There are many aspects of criminal court case processing that can exacerbate litigants' and court staffs' trauma symptoms such as: initial detainment, arraignment, conversations with attorneys, plea negotiation/taking a plea,

the physical set up of courtrooms and waiting areas, navigating the courthouse layout, understanding court rules, involvement with officers, and re-traumatization from listening to facts of other cases. Each of these components of the system is an opportunity to recognize, address, and respond to trauma effectively. SAMHSA has identified a guiding framework as the foundation for trauma-informed court engagement: 1. realizing the impact of trauma; 2. recognizing signs and symptoms of trauma in individuals involved in the system; 3. responding by incorporating knowledge about trauma into its practices and procedures; and 4. actively resisting re-traumatization.^[11] By uplifting the use of this framework, judicial officers, court staff, and court contributors can minimize the trauma responses that can impact criminal proceedings. To that end, this trauma-responsive care should be standard practice for any individual involved in or connected to the criminal legal system.

The leadership of employing agencies can invest time and resources to address trauma and incorporate new practices. Courts face not only financial constraints, but also philosophical challenges to garnering support for trauma-informed care. If buy-in is established, courts can amend practices by training each staff role to identify and respond to signs of trauma, to build stronger relationships and physical proximity to community-based resources, and to limit re-traumatization through repeating traumatizing material more than is necessary.

Trauma-Informed Court Spaces and Practices

Participating in court spaces can be stressful, triggering, and intimidating for individuals who have experienced trauma. Trauma-informed court spaces and practices reduce the likelihood of re-traumatization and/or activation of trauma-related symptoms by creating environments that promote physical and psychological safety into every aspect of the court experience. Investment and implementation of trauma-informed practices contributes to a more equitable and compassionate criminal legal system that supports court users and prevents additional harm.

Courts contend with physical limitations to spatial changes, as well as financial constraints. Courts may also not be accessible via public transportation, and may also be challenging to navigate for individuals with disabilities. While these limitations are constraining, there are several low/no cost options for courts to improve their physical space—changes like improved signage, and incorporating community-based artwork can foster more welcoming environments. Courts may also choose to make larger scale investments in re-design, such as using electronic kiosks, incorporating natural light, and adjusting the layouts of courtrooms to promote safety and collaboration. In addition to physical changes, courts can also improve practice pertaining to security and technology to improve court user experience and limit re-traumatization.

Next Steps

Criminal courts that successfully implement trauma-informed practices will gain the ability to work with the public more effectively, including not only defendants/litigants, but also jurors, victims, witnesses, and friends/family of litigants. Trauma-informed care encompass a range of policies and practices that extends not just to court users, but also to court staff who are exposed to traumatic material on a daily basis. Ensuring these practices are fully implemented can help courts better serve their communities, ultimately improving public safety and access to resources.

Future work in the TIPS project will include further exploration of victim service coordination, and attention to details of criminal case processing for litigants. The Center will develop a blueprint for implementation of trauma-informed practices in criminal court, and provide training and technical assistance to support the piloting of those practices in 4-6 jurisdictions across the country. Lessons learned from the pilots will inform national work on trauma-informed care.

Endnotes

- [1] American Psychiatric Association (2022). *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition Text Revision*.
- [2] Child Sexual Abuse Statistics—The National Center for Victims of Crime; Statistics (ncadv.org); Turner, Finkelhor, Ormrod, (2010) Poly-Victimization in a National Sample of Children and Youth (futureswithoutviolence.org); Children's Exposure to Violence: A Comprehensive National Survey (ojp.gov); Victims of Sexual Violence: Statistics | RAINN; Office for Victims of Crime Training and Technical Assistance Center (n.d.). *Homicide Resource Paper*. Retrieved from: https://www.ovcttac.gov/downloads/resourceLibrary/General/Color_HomicideResourcePaper_2012%20_final_508c9172012.pdf
- [3] [mhf4-trauma-mar2020.pdf \(ncsc.org\)](https://www.ncsc.org/mhf4-trauma-mar2020.pdf)
- [4] Women's Pathways to Jail: Examining Mental Health, Trauma, and Substance Abuse (ojp.gov)
- [5] 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.
- [6] Ardino, V. (2012). Offending behaviour: The role of trauma and PTSD. *European Journal of Psychotraumatology, 3*(1), 18968.
- [7] What is Vicarious Trauma? | The Vicarious Trauma Toolkit | OVC (ojp.gov)
- [8] Key Ingredients for Successful Trauma-Informed Care Implementation (samhsa.gov)
- [9] <https://ovc.ojp.gov/program/vtt/what-is-vicarious-trauma#:~:text=Vicarious%20trauma%20is%20an%20occupational,victims%20of%20trauma%20and%20violence.>
- [10] https://www.ptsd.va.gov/professional/treat/cooccurring/moral_injury.asp
- [11] <https://store.samhsa.gov/sites/default/files/sma14-4884.pdf>

Center
for
Justice
Innovation



State Justice Institute