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# TRAUMA-INFORMED ADVOCACY: LEARNING TO EMPATHIZE WITH UNSPEAKABLE HORRORS

SUSAN AYRES\*

*[E]very poem holds the unspeakable inside it, the  
unsayable . . . the thing that you really can't say  
because it's too complicated, it's too complex for us.<sup>1</sup>*

## ABSTRACT

During the Senate Judiciary Committee Hearings on the nomination of Brett Kavanaugh as associate justice of the United States Supreme Court, Christine Blasey Ford testified regarding an alleged sexual assault by Kavanaugh that had occurred thirty-five years earlier. Although some viewed Blasey Ford's testimony as a doomed repeat of Anita Hill's testimony during the hearings on the nomination of Clarence Thomas, one significant difference was that the Kavanaugh hearings demonstrated an increased public awareness of the impacts of trauma. And just as senators hired a prosecutor trained in trauma-informed lawyering to question Blasey Ford, today's lawyers must understand how trauma impacts the victims they represent. In fact, studies indicate that sexual abuse of girls is correlated with their recidivism in the juvenile justice system, and the ABA has called for trauma-informed advocacy for children and youth. The importance of trauma-informed advocacy for all victims cannot be overstated. In learning to empathize with the unspeakable horrors of trauma, this Article argues for the incorporation of narrative and poetry as effective and efficient teaching tools for trauma-informed advocacy.

## INTRODUCTION

### I. TRAUMA AND ITS IMPACTS

### II. REPRESENTATIONS OF TRAUMA IN LITERATURE

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\* Professor of Law, Texas A&M University School of Law. I am grateful to the students in my spring 2017 Law and Literature Seminar who shared their responses to Marie Howe's poetry with me, and I am especially honored that Marie Howe read and commented upon an earlier draft of this Article. Participants of the 2017 Conference of the Association of Law, Culture and Humanities, and the 2018 Associated Writing Programs Conference also helped shape earlier drafts. Finally, I owe great thanks to my research assistants, Cecelia Morin, Najmu Mosheen, and Ashley Phillips, as well as to Professor Cynthia Burress, for their encouragement and assistance on this project.

1. Terry Gross, *Poet Marie Howe on "What the Living Do" After Loss*, NPR (Oct. 19, 2011, 10:47 AM), <https://www.npr.org/2011/10/20/141502211/poet-marie-howe-on-what-the-living-do-after-loss> [https://perma.cc/J86G-JY5Z].

- A. *The Work of Marie Howe*
- B. *Howe's Poems Describing Childhood Violations*
- C. *Poems Describing How Trauma Is Processed and the Impacts of Trauma*

### III. TRAUMA-INFORMED ADVOCACY

- A. *Characteristics of Trauma-Informed Advocacy*
- B. *Secondary Trauma*

### CONCLUSION

### INTRODUCTION

During the Senate Judiciary Committee Hearing on the nomination of Brett Kavanaugh as associate justice of the United States Supreme Court, Christine Blasey Ford testified that Kavanaugh had sexually assaulted her thirty-five years earlier when they were teenagers at a party in 1982.<sup>2</sup> Although in the minds of many, this was a doomed repeat of Anita Hill's testimony during the hearings on the nomination of Justice Clarence Thomas,<sup>3</sup> one significant difference was that in this hearing, the prosecutor hired to question Blasey Ford, some of the senators who questioned her, and Blasey Ford herself, all alluded to the effects of trauma on memory.<sup>4</sup> Blasey Ford's testimony

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2. Rhitu Chatterjee, *How Trauma Affects Memory: Scientists Weigh in on the Kavanaugh Hearing*, NPR (Sept. 28, 2018, 3:24 PM), <https://www.npr.org/sections/health-shots/2018/09/28/652524372/how-trauma-affects-memory-scientists-weigh-in-on-the-kavanaugh-hearing> [<https://perma.cc/U69H-BBQF>].

3. See Margaret Talbot, *On the Attack*, THE NEW YORKER (Sept. 3, 2018), <https://www.newyorker.com/magazine/comment/on-the-attack> [<https://perma.cc/3RLL-5AHN>] (commenting that "in certain ways, Ford's experience was just as bad as Hill's, and maybe worse. The hearing unleashed in Brett Kavanaugh a bitter, partisan rage pumped up with conspiracy theory").

4. *Id.* (noting that "[d]ecades' worth of research about the trauma of sexual assault made a difference" in the Blasey Ford hearings with both Blasey Ford and some of the senators "invoking the workings of memory and trauma"); see also Emma Green, *The Kavanaugh Prosecutor Is Asking a Baffling Line of Questions*, THE ATLANTIC (Sept. 27, 2018), <https://www.theatlantic.com/politics/archive/2018/09/kavanaugh-ford-rachel-mitchell-prosecutor-investigation/571492> [<https://perma.cc/NQV5-EC6H>] (describing the prosecutor as opening the hearing with a showing of empathy, and understanding that "it was okay if she didn't remember everything"). It is important to note that this Article is not arguing that the Kavanaugh Hearings or the questions by the prosecutor displayed a model of trauma-informed lawyering. See *id.* (pointing out some of the problems with the prosecutor's questions); see also Nancy Chi Cantalupo, *Dog Whistles and Beachheads: The Trump Administration, Sexual Violence, and Student Discipline in Education*, 54 WAKE FOREST L. REV. 303, 339–40 (2019) (discussing the backlash techniques used by those accused of sexual violence, including Kavanaugh); Caroline Fredrickson, *The Kavanaugh Hearings and the Search for a Just Justice Submission*, 49 GOLDEN GATE U.L. REV. 67, 68 (2019) (noting the similarities between the Senators' response to Hill and to Blasey Ford; "it felt almost as if the #MeToo moment had passed the Senate by"); Mary Ann Grover, Comment, *They Still Just Don't Get It: The Lessons of the #MeToo Movement through the Lens of the Supreme Court Nominations*, 22 RICH. PUB. INT. L. REV. 123, 135–37 (2019) (arguing that "our senators did not get the Kavanaugh/Ford hearings right"); Claudia Peña, *Trauma Abounds: A Case for Trauma-Informed Lawyering*, 26 UCLA WOMEN'S L.J. 7, 9–10 (2019);

and the questions presented during the hearing perhaps showed that “invoking the workings of memory and trauma in such cases is now commonplace.”<sup>5</sup>

In her opening statement, Blasey Ford explained how the alleged sexual assault impacted her psyche and memory.<sup>6</sup> She began by stating, “I am here today not because I want to be. I am terrified. I am here because I believe it is my civic duty to tell you what happened . . . .”<sup>7</sup> She went on to describe the events and to explain that “I don’t remember as much as I would like to. But the details . . . about that night . . . are the ones I will never forget. They have been seared into my memory, and have haunted me episodically as an adult.”<sup>8</sup> Some of the ways Blasey Ford was “haunted” by the events included experiencing symptoms of post-traumatic stress disorder (PTSD): “recounting [the memories] caused me to relive the experience, and caused panic and anxiety.”<sup>9</sup>

Just as senators hired a trauma-informed prosecutor who handles sexual assault cases to question Blasey Ford, today’s lawyers and judges need to understand what trauma is, and how it might affect representation and testimony of trauma victims. For instance, sometimes when trauma victims are testifying in court, “the language area of the brain shuts down” and witnesses “become so overwhelmed they are barely able to speak . . . . Their testimony is often dismissed as being too chaotic, confused, and fragmented to be credible.”<sup>10</sup>

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Anita Hill, *Anita Hill: “Let’s Talk about How to End Sexual Violence.”* N.Y. TIMES (May 9, 2019), <https://www.nytimes.com/2019/05/09/opinion/anita-hill-sexual-violence.html> [<http://perma.cc/U3N7-S8NL>] (criticizing the failure of “our political leaders . . . [to] take up the challenge of confronting [the problem of sexual violence]” and of the failure to “treat survivors with dignity and listen to women”).

5. Talbot, *supra* note 3.

6. *Senate Judiciary Committee Hearing on the Nomination of Brett M. Kavanaugh to be an Associate Justice of the Supreme Court, Day 5, Focusing on Allegations of Sexual Assault*, WASH. POST (Sept. 27, 2018), <https://web.archive.org/web/20190110213224/https://www.washingtonpost.com/news/national/wp/2018/09/27/kavanaugh-hearing-transcript/> [<https://perma.cc/8GB8-ZPYK>] [hereinafter *Kavanaugh Hearing Transcript*].

7. *Id.*

8. *Id.*

9. *Id.*; see also BESSEL A. VAN DER KOLK, *THE BODY KEEPS THE SCORE* 158–59 (2014) (describing PTSD as when “[a] person is exposed to a horrendous event ‘that involved actual or threatened death or serious injury, or a threat to the physical integrity of self or others,’ causing ‘intense fear, helplessness, or horror,’ which results in a variety of manifestations: intrusive re-experiencing of the event (flashbacks, bad dreams, feeling as if the event were occurring), persistent and crippling avoidance (of people, places, thoughts, or feelings associated with the trauma, sometimes with amnesia for important parts of it), and increased arousal (insomnia, hyper-vigilance, or irritability)).”

10. VAN DER KOLK, *supra* note 9, at 246. As van der Kolk observes, this dismissal of testimony happens frequently in immigration and veterans’ benefits cases. *Id.* at 246–47. See also Stephen Paskey, *Telling Refugee Stories: Trauma, Credibility, and the Adversarial Adjudication of Claims for Asylum*, 56 SANTA CLARA L. REV. 457, 460 (2016) (discussing the testimony and credibility of refugees when seeking political asylum).

Because of this, lawyers need to understand the effects of trauma and how to interview and effectively represent trauma victims. This is especially true for lawyers representing children, as demonstrated by the ABA when it passed a resolution in 2014 to implement trauma-informed systems in the child welfare and juvenile justice systems, including law schools.<sup>11</sup> Although much of this trauma-informed training for lawyers can be taught in law school clinics, it can also be taught in law school classrooms. This Article proposes that an efficient and effective way to convey an understanding about difficult subjects, including trauma resulting from domestic violence, child abuse, or war, is by teaching stories and poems.<sup>12</sup>

This Article examines how lawyers and law students can understand the effects of trauma in order to provide better representation to trauma victims. Undoubtedly, many lawyers and judges, like the general population, avoid reading or talking about trauma, because as researcher Dr. Bessel van der Kolk points out, “[n]obody wants to remember trauma. In that regard society is no different from the victims themselves. We all want to live in a world that is safe, manageable, and predictable, and victims remind us that this is not always the case.”<sup>13</sup> Despite this resistance, it is imperative that lawyers learn the tools of trauma-informed advocacy. Thus, Part I of this Article describes how the brain processes traumatic events and how trauma affects a victim’s psychological and physical health. Part II furthers this analysis by examining representations of trauma in poetry, which is a particularly effective tool to use in teaching about trauma-informed advocacy. Part III then describes the primary characteristics

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11. A.B.A., ABA POLICY ON TRAUMA-INFORMED ADVOCACY FOR CHILDREN AND YOUTH 9 (2014), [https://www.americanbar.org/content/dam/aba/administrative/child\\_law/ABA%20Policy%20on%20Trauma-Informed%20Advocacy.pdf](https://www.americanbar.org/content/dam/aba/administrative/child_law/ABA%20Policy%20on%20Trauma-Informed%20Advocacy.pdf). Additionally, Congress passed the Family First Prevention Services Act in 2018, aimed at “prevent[ing] children from entering foster care” by providing more family-based services and resources; the act also requires that these services provide trauma-informed care. Sarah Katz, *Trauma-Informed Practice: The Future of Child Welfare?* 28 WIDENER COMMONWEALTH L. REV. 51, 81–82 (2019); Family First Prevention Services Act, 42 U.S.C.A. § 671(e)(1).

12. See Susan Ayres, *Teaching Empathy: Using Dramatic Narrative to Understand Domestic Violence*, 7 FAM. & INTIMATE PARTNER VIOLENCE Q. 331, 333–38 (2015) (describing the use of narratives in teaching about domestic violence); Miriam S. Gohara, *In Defense of the Injured: How Trauma-Informed Criminal Defense Can Reform Sentencing*, 45 AM. J. CRIM. L. 1, 51–53 (2018) (using song lyrics to show “the foreboding and hopelessness many of the young people of color who disproportionately populate our prisons and jails . . . live with today. The poetry evokes poverty, fatalism, and loss of loved ones—to murder, mental illness, and addiction”); Viviana I. Vasiliu, *Law and Poetry: A Fresh Perspective on Training Today’s Law Students, Tomorrow’s Advocates*, 54 GONZ. L. REV. 1, 1–5 (2018) (arguing that studying poetry in law school has multiple benefits, including “positive feelings,” “strengthen[ing] empathy and awareness pertaining to the variety and complexity of people,” and “enhanc[ing] critical thinking skills”); James Boyd White, *The Judicial Opinion and the Poem: Ways of Reading, Ways of Life*, 82 MICH. L. REV. 1669, 1669–70 (1984).

13. VAN DER KOLK, *supra* note 9, at 196.

of trauma-informed advocacy, which includes recognizing and preventing secondary trauma.

### I. TRAUMA AND ITS IMPACTS

Just as society has recognized the problems and costs associated with war veterans suffering from PTSD,<sup>14</sup> society is slowly but surely recognizing the huge costs of childhood trauma on the general population. In the ACE (Adverse Childhood Experiences) Study, more than 17,000 people were surveyed and followed for fifteen years regarding the impact of adverse childhood experiences, including abuse, neglect, and household dysfunction.<sup>15</sup> Released in 1998 with ongoing monitoring of participants, the ACE Study showed that childhood trauma resulted in tremendous consequences, including “chronic disease, . . . mental illness, doing time in prison, and work issues, such as absenteeism.”<sup>16</sup> Incredibly, it also showed that “two-thirds of the adults in the study had experienced one or more types of adverse childhood experiences. Of those, 87 percent had experienced two or more types,” such as physical or sexual abuse, verbal abuse, a parent with substance abuse problems, a battered mother, and emotional or physical neglect.<sup>17</sup> The ACE Study found that as a person’s ACE score increased (based on the number of adverse childhood experiences), so did the risk of suicide, drug and alcohol abuse, and other negative consequences.<sup>18</sup>

One of the ACE Study researchers observed that child abuse was “the gravest and most costly public health issue in the United

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14. See Robert N. Davis, *Veterans Fighting Wars at Home and Abroad*, 45 TEX. TECH L. REV. 389, 390–96 (2013) (discussing the unemployment, homelessness, physical disabilities, and PTSD facing veterans); Mark A. McCormick-Goodhart, Comment, *Leaving No Veteran Behind: Policies and Perspectives on Combat Trauma, Veterans Courts, and the Rehabilitative Approach to Criminal Behavior*, 117 PENN ST. L. REV. 895, 904 (discussing links between veterans’ PTSD and criminal behavior).

15. CASEY GWINN, CHEERING FOR THE CHILDREN: CREATING PATHWAYS TO HOPE FOR CHILDREN EXPOSED TO TRAUMA 14–15 (2015) (listing the subcategories of adverse childhood experiences as follows: emotional abuse, physical abuse, sexual abuse, emotional neglect, mother treated violently, household substance abuse, household mental illness, parental separation or divorce, incarcerated household member); Vincent J. Felitti et al., *Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults*, 14 AM. J. PREVENTIVE MED. 245, 246–52 (1998) (describing the impact of adverse childhood experiences on health in adults); Jane Ellen Stevens, *Childhood Trauma: Root Causes of a Public Health Crisis*, 32 DEL. LAW. 10, 13 (2014–15).

16. Stevens, *supra* note 15, at 12.

17. *Id.*

18. See Karen Oehme & Nat Stern, *Improving Lawyers’ Health by Addressing the Impact of Adverse Childhood Experiences*, 53 U. RICH. L. REV. 1311, 1325–26 (2019) (“The relationship between ACEs and negative outcomes in adulthood is referred to as a ‘dose-response’ relationship. As a person’s ACE score increases—counting each type of adversity experienced as one point—so does the risk of suffering negative adult outcomes.”).

States . . . and that eradicating child abuse . . . would reduce the overall rate of depression by more than half, alcoholism by two-thirds, and suicide, IV drug use, and domestic violence by three-quarters.”<sup>19</sup> Researchers estimated that “just *one* year of confirmed cases of child maltreatment costs \$124 billion over the lifetime of the traumatized children.”<sup>20</sup> These costs include health care, medical, lost productivity, child welfare, and criminal justice costs.<sup>21</sup>

In addition to understanding the tremendous consequences and costs of childhood trauma, recent advances in neuroscience help us understand trauma’s more general effects on the brain and body. Dr. Bessel van der Kolk, who has worked with trauma researcher Dr. Judith Hermann, describes these effects in *The Body Keeps the Score*, where he observes that it is important to realize “[a]ll trauma is preverbal.”<sup>22</sup> When people face a traumatic experience, “their emotional brains take the reins and supersede their executive functions.”<sup>23</sup> Moreover, trauma is especially harmful for children’s developing brains, because “[c]hildren with toxic stress live much of their lives in fight, flight or . . . freeze . . . mode. They respond to the world as a place of constant danger. With their brains overloaded with stress hormones . . . they can’t focus on learning. They fall behind in school or fail to develop healthy relationships with peers or create problems with teachers . . . because they are unable to trust adults.”<sup>24</sup>

Dr. van der Kolk describes trauma as “speechless horror” because when a person is undergoing trauma or flashbacks, it is the *right* side of the brain that processes the trauma as “sense fragments” such as “sounds and smells and physical sensations.”<sup>25</sup> The right side of the brain is the “intuitive, emotional, visual, spatial, and tactile”; whereas the *left* side is the side that “organize[s] experience in logical sequences” and gives words to experience.<sup>26</sup> So, after experiencing trauma, a person may be without words to express it. Eventually, a person might be able to piece together a story, but it is not the traumatic memory itself; rather it is what Dr. van der Kolk calls the “narrative memory,” or “the stories people tell about trauma.”<sup>27</sup>

In addition to lacking the words for a traumatic experience, a person’s traumatic memories are often disorganized.<sup>28</sup> Some memories

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19. VAN DER KOLK, *supra* note 9, at 150.

20. Stevens, *supra* note 15, at 13.

21. *Id.* at 14.

22. VAN DER KOLK, *supra* note 9, at 43.

23. Gohara, *supra* note 12, at 20.

24. Stevens, *supra* note 15, at 13.

25. VAN DER KOLK, *supra* note 9, at 43–44.

26. *Id.* at 44–45.

27. *Id.* at 181.

28. *Id.* at 195.

may be very clear, but the sequence of events is not.<sup>29</sup> Right after a trauma, a person cannot tell exactly what happened; eventually, a person may be able to piece together a story, but Dr. van der Kolk found that victims of child abuse “had the most fragmented narratives—their memories still arrived as images, physical sensations, and intense emotions.”<sup>30</sup>

Thus, for instance, during the Senate Judiciary Committee Hearings on the nomination of Kavanaugh, Dr. Blasey Ford responded to Senator Leahy’s question, “What is the strongest memory you have, the strongest memory of the incident, something that you cannot forget?” with the following answer: “Indelible in the hippocampus is the laughter, the laugh—the uproarious laughter between the two [Brett Kavanaugh and Mark Judge], and their having fun at my expense.”<sup>31</sup> In response to Senator Klobuchar’s question, “[C]an you tell us what you don’t forget about that night,” Dr. Blasey Ford responded:

The stairwell, the living room, the bedroom, the bed on the right side of the room as you walk into the room. There was a bed to the right. The bathroom in close proximity, the laughter, the uproarious laughter, and the multiple attempts to escape and the final ability to do so.<sup>32</sup>

As trauma experts explain, “[t]he stress hormones, cortisol, norepinephrine, that are released during a terrifying trauma tend to render the experience vivid and memorable, especially the central aspect, the most meaningful aspects of the experience for the victim.”<sup>33</sup> This is what Blasey Ford, herself an expert on trauma, explained in response to a question from Ranking Member Feinstein, in the following dialogue:

FEINSTEIN: I want to ask you one question about the attack itself. You were very clear about the attack. Being pushed into the room, you say you don’t know quite by whom, but that it was Brett Kavanaugh that covered your mouth to prevent you from screaming, and then you escaped. How are you so sure that it was he?

FORD: The same way that I’m sure that I’m talking to you right now. It’s—just basic memory functions. And also just the level

29. *Id.*

30. VAN DER KOLK, *supra* note 9, at 195–96.

31. *Kavanaugh Hearing Transcript*, *supra* note 6. It is important to note that Blasey Ford holds a Ph.D. in psychology, so several times during the hearing, she used technical explanations about the neuroscience of memory and trauma in her answers, such as this one referring to the hippocampus of the brain. *Id.*

32. *Id.*

33. Chatterjee, *supra* note 2 (quoting Harvard psychologist, Richard McNally).



of norepinephrine and epinephrine in the brain that, sort of, as you know, encodes—that neurotransmitter encodes memories into the hippocampus. And so, the trauma-related experience, then, is kind of locked there, whereas other details kind of drift.

FEINSTEIN: So what you are telling us is this could not be a case of mistaken identity?

FORD: Absolutely not.<sup>34</sup>

The strongest details are encoded, but trauma victims do not remember all of the details, or even the sequence of events. This was shown in Blasey Ford's testimony when she could not remember how she got home, who was at the party, or other details of her experience, including exactly what year it occurred.<sup>35</sup>

Additionally, because traumatic memories lack logical sequence, a person experiencing a flashback may not be aware that he or she is "reexperiencing . . . the past," but rather, the "brain reacts as if the traumatic event were happening in the present."<sup>36</sup> Moreover, when the memory of trauma is retriggered, the frontal lobe shuts down, and elevated stress hormones can lead to problems such as high blood pressure and heart rate, "memory and attention problems, irritability, and sleep disorders."<sup>37</sup> Even when a person responds to traumatic memories by going into denial, the stress hormones still send signals, and as Dr. Van der Kolk warns, "the body continues to keep the score."<sup>38</sup>

As a consequence, trauma victims often turn to "food, alcohol, tobacco, methamphetamines, inappropriate sex, high-risk sports, and/or work and overachievement."<sup>39</sup> While Blasey Ford did not admit to drug or alcohol addiction as a result of her trauma, she did describe the impacts of PTSD during her opening statement and throughout the questioning.<sup>40</sup> For instance, she described her need for "a second front door" in the remodeling of her house, because of her "panic and anxiety" in remembering the assault<sup>41</sup> and her sense of claustrophobia.<sup>42</sup> She also described the difficult time she had

34. *Kavanaugh Hearing Transcript*, *supra* note 6.

35. *Id.* (whether music was turned down, how she got home, date of incident, exact place).

36. VAN DER KOLK, *supra* note 9, at 45.

37. *Id.* at 46.

38. *Id.*

39. Stevens, *supra* note 15, at 13.

40. *Kavanaugh Hearing Transcript*, *supra* note 6.

41. *Id.*

42. *Id.*

transitioning to college: “the immediate impact was probably the worst . . . the first four years. I think I described earlier a fairly disastrous first two years of undergraduate studies at University of North Carolina, where I was finally able to pull myself together.”<sup>43</sup>

Not all abuse victims can pull themselves together. In fact, recent studies have suggested that there are a growing number of girls in the juvenile justice system, and that “the most salient predictor of recidivism” is “a history of sexual abuse.”<sup>44</sup> Some have even labeled this the “Sexual Abuse-to-Prison Pipeline.”<sup>45</sup> Moreover, when these young victims become involved with the criminal justice (or juvenile justice) system, it in effect re-traumatizes them, so traditional methods of punishment are ineffective to deal with the underlying trauma.<sup>46</sup>

In addition, victims of sexual violence generally do not fit the diagnostic criteria for PTSD because unlike other trauma victims, such as war veterans, dissociation is common.<sup>47</sup> Like physically abused or neglected children, sexual violence victims “do not necessarily remember their traumas . . . or at least are not preoccupied with specific memories of their abuse.”<sup>48</sup> Moreover, victims of childhood sexual violence are often intimidated into not telling anyone about sexual abuse, and it is also common for them to be ashamed and to blame themselves for seducing their abuser.<sup>49</sup>

## II. REPRESENTATIONS OF TRAUMA IN LITERATURE

The poet Ben Lerner reminds us in *The Hatred of Poetry* that “[m]any more people agree they hate poetry than can agree what poetry is.”<sup>50</sup> Despite this assertion, poet C.D. Wright claims, “If I

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43. *Id.* In an earlier portion of the testimony, Dr. Blasey Ford explained, “[t]he primary impact was in the initial four years after the event. I struggled academically. I struggled very much in Chapel Hill and in college. When I was 17 and went off to college, I had a very hard time, more so than others, forming new friendships and especially friendships with boys, and I had academic problems.” *Id.*

44. Selby M. Conrad et al., *Gender Differences in Recidivism Rates for Juvenile Justice Youth: The Impact of Sexual Abuse*, 38 L. & HUM. BEHAV. 305, 305 (2014).

45. Jeremy L. Thompson & Chanelle Artiles, *Dismantling the Sexual Abuse-to-Prison Pipeline: Texas’s Approach*, 41 T. MARSHALL L. REV. 239, 269 (2016) (examining Texas’s response to sex trafficking and prostitution in reducing prostitution related arrests and referrals to the juvenile justice system).

46. See Samantha Buckingham, *Trauma Informed Juvenile Justice*, 53 AM. CRIM. L. REV. 641, 664 (2016) (“Currently, the juvenile justice system fails to accurately identify trauma and often employs counter-productive responses to juvenile offending, such as removal from the home, programming and treatment that is general rather than trauma-specific, and over-use of detention.”).

47. VAN DER KOLK, *supra* note 9, at 134.

48. *Id.* at 144.

49. *Id.* at 133–34.

50. BEN LERNER, *THE HATRED OF POETRY* 6 (2016). See also MURIEL RUKEYSER, *THE*

wanted to understand a culture, my own for instance, and if I thought such an understanding were the basis for a lifelong inquiry, I would turn to poetry first . . . [because] poets remain the most ‘stunned by existence,’ the most determined to redeem the world in words . . . ”<sup>51</sup>

Poems can be especially effective to evoke an emotional response in the reader because they “offer opportunities to imagine the experiences of another. The poet Mark Doty has said, ‘The project of poetry, in a way, is to raise language to such a level that it can convey the precise nature of subjective experience . . . . Poetry’s work is to make people real to us through the agency of the voice.’”<sup>52</sup>

One way poems create empathy (or emotional investment) in the reader is by metaphor. As Stephen Dobyns explains, the reader has to be a “participant” in the creative process by nondiscursive reasoning based on analogy, or by figuring out the information that has been left out.<sup>53</sup> Dobyns gives the example of the simple poem from one of W.S. Merwin’s translations in *Asian Figures*: “Life / Candle flame / Wind coming.”<sup>54</sup> As Dobyns explains, the reader has to supply a narrative and “imagine [a] consequence,” in order to infer by analogy that death is the metaphor.<sup>55</sup> The advantages of metaphor are speed and surprise; sometimes we understand a poem unconsciously before we understand it consciously because “[t]he nondiscursive material of the metaphor is first understood by the nonanalytic right brain,” so we understand by nonverbal perception.<sup>56</sup>

The other advantage of poems is that the reader becomes a participant and so becomes emotionally invested in the poem, which, as an art form, has the ability to “define[] a precise emotion for which there are no other words [or to] define[] an emotion that did not exist in our vocabulary.”<sup>57</sup> As C.D. Wright asserts, “Poetry helps us suffer more efficiently.”<sup>58</sup> So, just as law students reason by analogy when they apply law to facts,<sup>59</sup> and just as they carefully read a statute or judicial opinion, they use the same skills to read a poem.<sup>60</sup>

LIFE OF POETRY 9 (1996) (noting that those who work with poetry must also deal with the hatred or indifference of poetry by others).

51. C.D. WRIGHT, COOLING TIME: AN AMERICAN POETRY VIGIL 55 (2005).

52. Email from Academy of American Poets Newsletter to Susan Ayres, Professor of Law, Texas A&M University School of Law (Nov. 15, 2016) (quoting poet Mark Doty) (on file with author).

53. STEPHEN DOBYNS, BEST WORDS, BEST ORDER: ESSAYS ON POETRY 332, 336, 339 (2d ed. 2003).

54. *Id.* at 332.

55. *Id.* at 333–34.

56. *Id.* at 20–21.

57. *Id.* at 339.

58. WRIGHT, *supra* note 51, at 93 (quoting Jack Gilbert).

59. DAVID S. ROMANTZ & KATHLEEN ELLIOTT VINSON, LEGAL ANALYSIS: THE FUNDAMENTAL SKILLS 37–38, 40 (2d ed. 2009).

60. See James Boyd White, *The Judicial Opinion and the Poem: Ways of Reading*,

However, a poem has the added function of educating emotions.<sup>61</sup> And just as traumatic experiences and memories are lodged in the right side of the brain, the understanding of a poem which occurs like an “immediate flash of comprehension” may also take place in the right side of the brain.<sup>62</sup> Recent studies in the field of neurocognitive poetics support observations that poems can “engage readers to mentally simulate and affectively resonate with the depicted state of affairs.”<sup>63</sup> In other words, research shows that poems do educate the emotions. This part considers how Marie Howe’s poems about childhood violence can be effectively used to teach trauma-informed lawyering.

### A. *The Work of Marie Howe*

Many contemporary poets have written about traumatic experiences, including war,<sup>64</sup> sexual abuse, and intimate partner violence,<sup>65</sup> but fewer have written about childhood violence or abuse.<sup>66</sup> One poet who has written about childhood violence is Marie Howe, primarily in her second collection, *What the Living Do*.<sup>67</sup> Howe has won awards such as the National Poetry Series award, served as the Poet Laureate of New York from 2012–2014,<sup>68</sup> and currently serves as a Chancellor for the American Academy of Poetry.<sup>69</sup> Howe was raised in Rochester, New York as the oldest girl in an Irish Catholic family of nine children.<sup>70</sup> In an NPR interview, she has explained that “[i]t was a

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*Ways of Life*, 82 MICH. L. REV. 1669, 1670–73 (1984) (discussing the connections in the ways law and poetry are taught).

61. DOBYNS, *supra* note 53, at 340.

62. *Id.* at 29, 332.

63. Jana Lüttke et al., *Immersing in the Stillness of an Early Morning: Testing the Mood Empathy Hypothesis of Poetry Reception*, 8 PSYCHOL. AESTHETICS, CREATIVITY, & ARTS 363, 363 (2014); see also Arthur M. Jacobs et al., *Mood-Empathic and Aesthetic Responses in Poetry Reception: A Model-Guided, Multilevel, Multimethod Approach*, 6 SCI. STUDY LITERATURE 87, 87 (2016) (studying the factors that shape poetry reception).

64. An example is the work of Pulitzer Prize-winning poet Yusef Komunyakaa. See generally YUSEF KOMUNYAKAA, DIEN CAI DAU (1988).

65. See Ayres, *supra* note 12, at 334 (describing how the poems by Ai can be effectively taught in a domestic violence class).

66. See, e.g., MARGARET RANDALL, THIS IS ABOUT INCEST (1987) (a poetry/essay/photography exploration of how a female poet has reclaimed her body and how this suppression affects women); ANNE SEXTON, *Briar Rose (Sleeping Beauty)*, in TRANSFORMATIONS 107–12 (1971); Dawn Skorczewski, *What Prison Is This? Literary Critics Cover Incest in Anne Sexton’s “Briar Rose,”* 21 SIGNS 309, 309 (1996).

67. See generally MARIE HOWE, WHAT THE LIVING DO (1998).

68. Bio, MARIE HOWE, <https://mariehowe.com/home> [<https://perma.cc/ZA3T-AY6J>].

69. Chancellors, ACAD. OF AM. POETS, <https://www.poets.org/academy-american-poets/chancellors> [<http://perma.cc/DJS4-93VD>] (last visited Nov. 24, 2019).

70. Gross, *supra* note 1. Howe also explained in this interview that her mother had two miscarriages, and that she was “always pregnant,” that she was “a glamorous pregnant

very gendered world back in the '50s when I was growing up," and that as the oldest girl, "[I was] the assistant mother, and instantly. I mean by the time I was four years old, I think there were four of us [children]."<sup>71</sup>

In her second collection of poetry, *What the Living Do*, Marie Howe writes about the death of her favorite brother, eleven years her junior.<sup>72</sup> Most reviews and interviews about *What the Living Do* focus on these poems about her brother. However, the poems about her brother's illness are found only in one section of the book, which contains another section about childhood, including abuse by a father who was an alcoholic.<sup>73</sup> Although a reader should not assume Howe's poems are autobiographical or true,<sup>74</sup> in an interview Howe described her father as "an alcoholic man who tried very hard to get sober throughout his life and couldn't. . . . And I think that to grow up with an addict . . . does [something] to your view of the world [which] does become a very unpredictable and dangerous place."<sup>75</sup> This addiction is described in the poem "Two or Three Times":

The two or three times my father tried to quit drinking,  
for a few days

maybe a week,  
he would walk carefully around the house, feeling his way

through the kitchen and the pantry.  
His fingers trembled like a girl's.

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woman," and "[s]he was always standing in our backyard by that swimming pool with a cigarette in one hand, a drink in the other, in a bathing suit pregnant, talking to her other sisters, all pregnant, all with lipstick on, all with bathing suits on . . . ." *Id.*

71. *Id.*

72. See HOWE, *supra* note 67, at 41–42, 44–45 (especially poems in Part II). She has said that even though he was eleven years younger, "he was my editor and spiritual teacher." Gross, *supra* note 1. Additionally, Howe was one of the writers who helped circulate stories about AIDS in a book she co-authored with Michael Klein. See generally, MARIE HOWE, *IN THE COMPANY OF MY SOLITUDE: AMERICAN WRITING FROM THE AIDS PANDEMIC* (Michael Klein ed., 1994). One of the early AIDS slogans was "Silence = Death." See VAN DER KOLK, *supra* note 9, at 234. In her poetry collection, Howe never uses the label AIDS because she does not want to contain or limit the poems' complexity.

73. See HOWE, *supra* note 67, at 75.

74. In an interview she states in response to the question of whether her poems are autobiographical: "It's all constructed. . . . It's alchemy of language and memory and imagination and time and music and sounds that gets made, and that's different from 'Here is what happened to me when I was ten.'" David Elliott, *The Complexity of the Human Heart: A Conversation with Marie Howe*, AGNI ONLINE (Jan. 30, 2018), <https://agnionline.bu.edu/interview/the-complexity-of-the-human-heart-a-conversation-with-Marie-Howe> [<https://perma.cc/Lv3L-FQG7>].

75. Gross, *supra* note 1.

And there was a light around him, fragile and already cracked  
we could see clear through

which was his hope, which he shared with no one.<sup>76</sup>

Aside from her father's alcoholism, Howe has also said, "my own father's sexuality was boundariless, [sic] and frightening."<sup>77</sup> In terms of writing about frightening things, Howe explained that in her first book, *The Good Thief*, "[Biblical] characters and stories were a way of getting to my personal story, and a deeper truth. . . . To speak outright was against the laws of my family, and to a certain extent, still against the laws that apply to women and other silenced peoples."<sup>78</sup> Howe uses Biblical stories as masks in her first collection (*The Good Thief*), third collection (*Kingdom of Ordinary Time*), and her most recent collection (*Magdalene*).<sup>79</sup>

However, in her second book, *What the Living Do*, Howe felt compelled to write more personal or confessional poems about childhood after her brother died, because, as she has said, "I realized when I wrote about John, I had to write about gender. I was interested in what it means to be a woman, what it means to be a man."<sup>80</sup> Part of that included describing a girl's sexuality, and "[i]n order to write about what it means to be a woman in love with a man, I had to go back and find that girl who is still in the attic."<sup>81</sup> The reference to "the attic" is metaphorical and literal—the speaker in *What the Living Do* has a bedroom in the attic, and in some of the poems, abuse occurs in the attic. Despite the correlations in the poems to her personal life, when I discuss Howe's poems, I will refer to the "speaker" and not assume they are autobiographical, even though they may have autobiographical elements, such as the names of Howe's family

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76. HOWE, *Two or Three Times*, in *WHAT THE LIVING DO*, *supra* note 67, at 75.

77. Victoria Redel, *Marie Howe*, *BOMB MAG.* (Oct. 1, 1997), <https://bombmagazine.org/articles/marie-howe> [<https://perma.cc/P9Q9-LNUB>].

78. *Id.*

79. MARIE HOWE, *THE GOOD THIEF* 35 (1988); MARIE HOWE, *THE KINGDOM OF ORDINARY TIME* 15 (2008); MARIE HOWE, *MAGDALENE* 46–47 (2017). In the NPR interview with Terry Gross, Howe explained,

I love the Gospels and I loved the stories of what we call the Old Testament or the Torah. They were the mythology of my life growing up. Everybody, from Adam and Eve to Noah, you know, Jonah and the whale, the Apostles, Jesus himself, all those characters were like Shakespeare to me. They were the world.

Gross, *supra* note 1. One of her teachers, the poet Stanley Kunitz, referred to her as a "religious poet," which Howe said she understood to mean her interest "with the metaphysical, the spiritual dimensions of life as they present themselves in this world." Elliott, *supra* note 74.

80. Redel, *supra* note 77.

81. *Id.*

members and friends.<sup>82</sup> As Emily Dickinson explained in a letter, “[w]hen I state myself, as the representative of the verse, it does not mean me, but a supposed person.”<sup>83</sup>

Although *What the Living Do* contains personal or confessional poems, ironically, in one poem the speaker criticizes personal narratives.<sup>84</sup> In “Memorial,” the speaker is talking to her lover, James: “When I tell him about the post-modern brokenness in Caroline Forché’s poems, / that can’t be repaired, he stirs the old fire with a stick.”<sup>85</sup> The speaker thinks to herself “James is stupid, / he doesn’t know that the personal narrative is obsolete.”<sup>86</sup> This is ironically humorous (and maybe self-deprecating) because the collection is filled with personal narratives, and the poems themselves demonstrate that the personal narrative is *not* obsolete.<sup>87</sup> However, Howe did say that after she finished this second collection she “never [wanted] to write anything personal again.”<sup>88</sup> Nonetheless, about poetry Howe has said, “We all have stories to tell. It’s the complexity of the human heart that I think is poetry’s subject—the complexity of the human experience.”<sup>89</sup> Howe emphasizes that when we read poetry we have to be prepared to dwell with uncertainty, and “[a]nything that pushes us into the depths of our being is very hard to bear.”<sup>90</sup>

Howe’s poems in *What the Living Do* are well-suited to use in the law school classroom because they are written in what she calls a “transparent” style, without metaphors, because she wanted “to document some of the things that happened” that would be easily “accessible to people who don’t usually read poetry, to my brothers and sisters . . . Regular people.”<sup>91</sup> The term “transparent poetry” has been described as the “use of language that does not depend on form,

82. The interviewer comments that in “*What the Living Do* . . . you drop the voices of Biblical mythology and let actual people, the actual people of Marie Howe’s life, enter the poems. Brothers, friends, lovers, grade school kids. It is a very brave leap to include all the names. The actual people are all that is needed for a mythology.” Redel, *supra* note 77.

83. Thomas Wentworth Higginson, *Emily Dickinson’s Letters*, THE ATLANTIC (Oct. 1891), <https://www.theatlantic.com/magazine/archive/1891/10/emily-dickinsons-letters/306524> [<https://perma.cc/5VCY-Z82V>]. Marie Howe quoted this in her workshop on “Myth and the Freedom of the Mask,” at the Poetry at Round Top Festival held April 12–14, 2019, in Round Top, Texas (notes on file with author).

84. HOWE, *supra* note 67, at 80–83.

85. *Id.* at 83.

86. *Id.*

87. See generally *id.*

88. Elliott, *supra* note 74.

89. *Id.*

90. *Id.*

91. *Id.*

sound-work, metaphor, condensation, or complexity of thought—apparently straightforward language . . . ”<sup>92</sup> One example of a transparent poem about Howe’s dying brother is the poem “The Last Time”:

The last time we had dinner together in a restaurant  
with white tablecloths, he leaned forward

and took my two hands in his hands and said,  
I’m going to die soon. I want you to know that.

And I said, I think I do know.  
And he said, What surprises me is that you don’t.

And I said, I do. And he said, What?  
And I said, Know that you’re going to die.

And he said, No, I mean know that you are.<sup>93</sup>

Although this poem has simple, conversational language and appears to be spontaneous, the turn in the last line makes the poem “disarming, . . . easy to grasp in one sitting but rich with implications and reverberations that expand during subsequent readings.”<sup>94</sup> As C.D. Wright claims, “[p]oetry is the language of intensity. Because we are going to die, an expression of intensity is justified.”<sup>95</sup> Howe’s poems are intense in their simplicity or transparency; they are about life and death, and evoke an immediate and strong response in readers.

While the poems about childhood in *What the Living Do* contain straightforward or transparent language, they sometimes contain more figurative language relating to childhood, such as playing games like freeze-tag or building imaginary towns.<sup>96</sup> As Howe writes in “The Game”:

And on certain nights,  
maybe once or twice a year,  
I’d carry the baby down  
and all the kids would come

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92. LESLIE ULLMAN, *LIBRARY OF SMALL HAPPINESS: ESSAYS, POEMS, AND EXERCISES ON THE CRAFT OF POETRY* 122 (2017). Ullman explains that Ron Padgett described his own poetry as transparent. Other transparent poets include William Carlos Williams, William Stafford, Frank O’Hara, Robert Creeley, Denise Levertov, Charles Reznikoff, W.S. Merwin, Martha Collins, and others. *See id.* at 140 *passim*.

93. HOWE, *The Last Time*, in *WHAT THE LIVING DO*, *supra* note 67, at 50.

94. ULLMAN, *supra* note 92, at 126 (discussing characteristics of transparent poems).

95. WRIGHT, *supra* note 51, at 61.

96. HOWE, *The Game*, in *WHAT THE LIVING DO*, *supra* note 67, at 35.



all nine of us together,  
and we'd build a town in the basement.<sup>97</sup>

In their imaginary town, the kids would settle down for a make-believe night of sleep, and one of the brothers would act as a town crier, walking around the basement town counting out the hours until pretend morning and declaring that all was well. "Nine o'clock and all is well, he'd say."<sup>98</sup> This contrasts with the speaker's life described in other poems, in which all was *not* well at night, especially when the father would come into her room in the attic and assault her. In *What the Living Do*, Howe narrates hidden secrets of childhood; but interestingly, in the five interviews she gave after that collection was published, none mention these poems or the topic of childhood violations, perhaps because of Howe's sense that the poems are "against the laws of [her] family" and are too complex to be reduced to labels such as "childhood sexual abuse."<sup>99</sup>

The first poem in *What the Living Do*, "The Boy," describes the laws of her family and gives background context for the family dynamics.<sup>100</sup> It is not really necessary to say much about the poem; it speaks for itself. "The Boy" reads as follows:

My older brother is walking down the sidewalk into the suburban summer night:  
white T-shirt, blue jeans—to the field at the end of the street.

Hangers Hideout the boys called it, an undeveloped plot, a pit overgrown  
with weeds, some old furniture thrown down there,

and some metal hangers clinking in the trees like wind chimes.  
He's running away from home because our father wants to cut his hair.

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97. *Id.*

98. *Id.*

99. Redel, *supra* note 77. The interview that skirts the issue is the BOMB interview quoted above in which Howe admits that her father's "sexuality was boundariless, [sic] and frightening." *Id.* The social problem with writing or talking about trauma is that others will shun you:

Talking about painful events doesn't necessarily establish community—often quite the contrary. Families and organizations may reject members who air the dirty laundry; friends and family can lose patience with people who get stuck in their grief or hurt. This is one reason why trauma victims often withdraw and why their stories become rote narratives, edited into a form least likely to provoke rejection.

VAN DER KOLK, *supra* note 9, at 246.

100. HOWE, *The Boy*, in *WHAT THE LIVING DO*, *supra* note 67, at 15.

And in two more days our father will convince me to go to  
 him—you know  
 where he is—and talk to him: No reprisals. He promised. A  
 small parade of kids

in feet pajamas will accompany me, their voices like the first  
 peepers in spring.

And my brother will walk ahead of us home, and my father

will shave his head bald, and my brother will not speak to any-  
 one the next  
 month, not a word, not *pass the milk*, nothing.

What happened in our house taught my brothers how to leave,  
 how to walk  
 down a sidewalk without looking back.

I was the girl. What happened taught me to follow him, whoever  
 he was,  
 calling and calling his name.<sup>101</sup>

“The Boy” is a transparent narrative. The description of “a small parade of kids” contains the figurative language of “their voices like the first peepers in spring.”<sup>102</sup> The tension and surprise comes in the father’s action of shaving the boy’s head, which seems to be a violent reprisal. The final lines are also more figurative than transparent. In this family, the father is authoritarian and controlling, the boys learn to leave, while the girls learn to be dependent on men.

### *B. Howe’s Poems Describing Childhood Violations*

Howe’s more sustained poems about childhood violations include “The Mother” and “The Attic” from *What the Living Do*, and “Who” from her next collection, *The Kingdom of Ordinary Time* (published ten years later in 2008).<sup>103</sup> Howe’s most recent collection, *Magdalene*, also contains poems, such as “Magdalene—The Seven Devils,” describing the effects of trauma.<sup>104</sup> These poems depict what Dr. van der Kolk calls the “narrative memory” (the story pieced together as opposed to the traumatic memory itself) of a drunken father abusing his teenage daughter.<sup>105</sup>

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101. *Id.*

102. *Id.*

103. *Id.* at 25, 28–29; HOWE, *Who*, in *THE KINGDOM OF ORDINARY TIME*, *supra* note 79, at 50.

104. HOWE, *Magdalene—The Seven Devils*, in *MAGDALENE*, *supra* note 79, at 16–20. This poem is discussed in Section II.C of this Article.

105. VAN DER KOLK, *supra* note 9, at 181.

Howe's poem "The Mother" recounts abuse from the viewpoint of the speaker as an adult, when her own mother suffers from ailments of "early old age":

In her early old age the mother's toenails curl over her toes  
so that when she walks across the kitchen floor some click.

The doctor has warned her, for the third time, that her legs will  
ulcerate if she doesn't rub moisturizer into them so

unwilling is she to touch her own body or care for it  
—the same woman who stood many night at the foot of that  
attic stairs

as her husband weaved and stammered up into the room where  
her daughter slept  
—on the landing, in her bathrobe,

by the laundry chute, unmoving,  
like a statue in the children's game her children play—

and now the soft drone of her daughter's waking voice, reasoning  
and  
rising, and the first slap

and the scrape of her son's chair pushed back from his desk,  
the air thick now with their separate listening,

and again the girl's voice, now quietly weeping, and the creak of  
her bed . . .

In the game, someone has to touch you to free you

then you're human again.<sup>106</sup>

It is significant that the abuse is told from the mother's perspective because it gives the speaker a way to distance and depersonalize the acts. In the beginning stanzas of the poem, the reader empathizes with the mother, who cannot touch or take care of herself. By the middle stanzas, the reader's attitude shifts, and by the end, the reader may be angry at the mother for not intervening. In this poem, the "mother" is unnatural, or at least not very motherly. We typically expect a mother to fight tooth and nail to protect her child, however, this mother fails to do so. She's not fighting tooth and nail, she cannot even clip her toe nails. She's frozen and broken, shown by

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106. HOWE, *The Mother*, in WHAT THE LIVING DO, *supra* note 67, at 25.

her “unwilling[ness] . . . to touch her own body . . . .”<sup>107</sup> Some readers might surmise that the mother suffers as a victim herself, living with an alcoholic husband, who possibly sexually or physically abuses her.<sup>108</sup>

The reader’s understanding of the situation is immediate and emotional—it occurs on the nondiscursive level, as Dobyns explains.<sup>109</sup> What is left out of the poem “The Mother” is any graphic details about the abuse, which is suggested by phrases such as “her husband weaved and stammered” into the sleeping daughter’s bedroom, the “soft drone of her daughter’s waking voice, reasoning and rising, and the first slap,” and the girl’s “weeping and the creak of her bed.”<sup>110</sup> Some readers may infer a narrative of sexual abuse from these poignant details.

This poem also contains figurative language of “games,” especially freeze-tag.<sup>111</sup> The mother’s frozen response when the father goes up to the daughter’s room is “like a statue in the children’s game.”<sup>112</sup> However, while the game played by the children in “The Game” is innocent, the reader understands immediately that the game in “The Mother” is chilling because the speaker’s very humanity is at stake. The poem ends with the lines “In the game, someone has to touch you to free you / then you’re human again.”<sup>113</sup> The children’s game of freeze-tag is in grim contrast to what is not a game. The comparison between “The Game” and “The Mother” is that the father’s touch makes the speaker and the mother inhuman. The speaker becomes an object and is shamed. The mother becomes an inhuman statue by her passivity. When we readers logically grasp this profound despair, “[w]e feel and feel intensely—though briefly because fortunately we can step away” from what the girl experiences.<sup>114</sup>

While the speaker’s mother grows into old age without that freeing human touch, and cannot even touch herself, the speaker receives that human touch, not from her mother, but from her older brother in a companion poem “The Attic.”<sup>115</sup> Like “The Mother,” this poem is written in couplets:

107. *Id.*

108. Student Comment in the Law and Literature Seminar Course (Spring 2017) (on file with author). Additionally, in an interview, Howe said about her mother, “we [children] knew that there was suffering in that [sexual] part of her life.” Redel, *supra* note 77.

109. DOBYNS, *supra* note 53, at 20–21.

110. HOWE, *The Mother*, in WHAT THE LIVING DO, *supra* note 67, at 25.

111. *Id.*

112. *Id.*

113. *Id.*

114. DOBYNS, *supra* note 53, at 337.

115. HOWE, *The Attic*, in WHAT THE LIVING DO, *supra* note 67, at 28–29.

Praise to my older brother, the seventeen-year-old boy, who lived  
in the attic with me an exiled prince grown hard in his confine-  
ment,

bitter, bent to his evening task building the imaginary building  
on the drawing board they'd given him in school. His tools gleam  
under the desk lamp. He is as hard as the pencil he holds,  
drawing the line straight along the ruler.

Tower prince, young king, praise to the boy  
who has willed his blood to cool and his heart to slow. He's building

a structure with so many doors it's finally quiet,  
so that when our father climbs heavily up the attic stairs, he  
doesn't

at first hear him pass down the narrow hall. My brother is re-  
building  
the foundation. He lifts the clear plastic of one page

to look more closely at the plumbing,  
—he barely hears the springs of my bed when my father sits  
down—

he's imagining where the boiler might go, because  
where it is now isn't working. Not until I've slammed the door  
behind

the man stumbling down the stairs again  
does my brother look up from where he's working. I know it  
hurts him

to rise, to knock on my door and come in. And when he draws his  
skinny arm  
around my shoulders,

I don't know if he knows he's building a world where I can one  
day  
love a man—he sits there without saying anything.

Praise him.  
I know he can hardly bear to touch me.<sup>116</sup>

Although told objectively, this poem poignantly expresses the  
family dynamics of the drunken father and the older brother, who

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116. *Id.*

knows about the abuse and, unlike the mother, tries to comfort his sister by touch.<sup>117</sup> The primary metaphor in “The Attic” is that of building, like the play of the children in the basement, who are “build[ing] a town.”<sup>118</sup> The imaginary building the brother is drafting starkly contrasts with the dysfunctionality of the house he lives in. He has to rebuild the foundation, the foundation of the family and of the speaker. I read dark humor in lines such as “a structure with so many doors it’s finally quiet,” and “he’s imagining where the boiler might go, because / where it is now isn’t working.”<sup>119</sup> The juxtaposition of the brother’s intense preoccupation with the physical problems of the house becomes a metaphor for the emotional weight of slammed doors and what “isn’t working.”<sup>120</sup> The brother is so lost in drafting this perfect imaginary world—he has become so “hard”—that he blocks out or denies the sounds of his father violating his sister.<sup>121</sup> Again, the abuse is not detailed, but is implied through sounds of the bed springs, slammed door, and stumbling man.<sup>122</sup> The reader imagines the narrative sequence in which no one dares protect the speaker from the father, neither the mother nor the brother.

The older brother is exiled to the attic, and is “hard” or “has willed his blood to cool and his heart to slow” so that he can function in a house with so many frightening events.<sup>123</sup> Yet, for the speaker, the brother is a hero, a “prince,” and the poem offers him praise three times because he has the compassion to put his arm around her and sit with her after she’s been abused.<sup>124</sup> The speaker acknowledges that “it hurts him / to rise” and go to her, and also that even though he is seventeen, he is still a boy with “skinny arm[s]” and no match for their drunken father.<sup>125</sup>

The speaker’s sense of shame and self-loathing common to many sexual violence victims is revealed in the last line: “I know he [the brother] can hardly bear to touch me.”<sup>126</sup> But because he does touch her, the “imaginary building” he’s drawing is a metaphor for the future world he builds, in which his touch allows her the possibility of “one day / lov[ing] a man.”<sup>127</sup>

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117. See VAN DER KOLK, *supra* note 9, at 217–19 (discussing the importance of body-work therapy because “the most natural way that we humans calm down our distress is by being touched, hugged, and rocked”).

118. HOWE, *The Game*, in WHAT THE LIVING DO, *supra* note 67, at 35.

119. HOWE, *The Attic*, in WHAT THE LIVING DO, *supra* note 67, at 28.

120. *Id.*

121. *Id.*

122. *Id.*

123. *Id.*

124. *Id.* at 28–29.

125. HOWE, *The Attic*, in WHAT THE LIVING DO, *supra* note 67, at 28.

126. *Id.* at 29.

127. *Id.*

*C. Poems Describing How Trauma Is Processed and the Impacts of Trauma*

As explained above, childhood abuse is often stored in memory as sense fragments, and in both “The Mother” and “The Attic,” the sense fragments are primarily those of sound. “The Mother” describes sounds of the girl’s “waking voice, reasoning and / rising, and the first slap,” the brother’s chair scraping the floor, “the air thick now with their separate listening,” and finally, the girl’s quiet weeping “and the creak of her bed . . . .”<sup>128</sup> “The Attic” also describes sense fragments from the traumatic memory, especially sounds of the “father climb[ing] heavily up the attic steps,” and “stumbling down the stairs,” the bed springs, and the slammed door.<sup>129</sup> Additionally, as mentioned above, “The Attic” portrays more of the speaker’s emotional reaction in her “shaking shoulders” and sense of shame in feeling that her brother “can hardly bear to touch [her].”<sup>130</sup>

The poem “Who,” in Howe’s third volume, *The Kingdom of Ordinary Time*, gives more emphasis to the unspeakable through the use of similes, which the reader probably comprehends with a sense of dread. Quoted in full, the poem reads:

His steps up the stairs are like summer thunder one or two  
lakes away.  
He comes like a scent rising from a night pond.  
He comes like a recurring dream.  
like the rain falling through the forest at night, and far away  
and through the trees  
faint—the sound of fiddles  
a square of light where a door opens to the dark.

The sound of his climbing is like breathing underwater.  
And the stumbling is an answer to a prayer no one heard.  
Inevitable as daylight, exhaustive as pain,  
his climb and his footfall sound like another world  
ending  
another world ending.<sup>131</sup>

Although some of the similes in “Who” are innocuous—and in fact, some might read the first stanza as a love poem,<sup>132</sup> with its comparison to far off thunder and scents of a night pond and rain in the

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128. HOWE, *The Mother*, in WHAT THE LIVING DO, *supra* note 67, at 25.

129. HOWE, *The Attic*, in WHAT THE LIVING DO, *supra* note 67, at 28.

130. *Id.* at 28–29.

131. HOWE, *Who*, in THE KINGDOM OF ORDINARY TIME, *supra* note 79, at 50.

132. Student Comment in the Law and Literature Seminar Course (Spring 2017) (on file with author).

forest—the poem conveys a sense of dread at the beginning of the second stanza.<sup>133</sup> The similes in the second stanza of “breathing underwater” and the description of steps as “exhaustive as pain” shift the poem’s emotional tone, which a reader quickly feels and understands to be suffocating and painful.<sup>134</sup>

What the reader has to figure out in this poem is the speaker’s feelings. The sense that “his” appearance is “[i]nvincible as daylight,” ties nature with what is unnatural, and the simile from the first stanza of “[h]e comes like a recurring dream” is now understood more as nightmare, and conveys the ambiguity of what was experienced in the past with traumatic nightmares or flashbacks of the future.<sup>135</sup> The line break of “his climb and his footfall sound like another world / ending” is a plunge from the ambiguity of “another world,” which might be positive, to the negative and despairing feeling of “another world / ending,” especially with the repetition in the final line of “another world ending.”<sup>136</sup> The reader may not be sure what world is ending, but it feels like the speaker’s entire life is ending.<sup>137</sup> Just as in the other two poems, the reader who participates in the poem by making sense of it will feel the speaker’s emotional exhaustion and despair.

Finally, the irregular punctuation, irregular line lengths, and irregular lower/upper case words convey the struggle to remember and to name the “speechless horror.”<sup>138</sup> As Dr. van der Kolk found, trauma victims still cannot explain their feelings years later.<sup>139</sup> He says, “Their bodies re-experience terror, rage, and helplessness, as well as the impulse to fight or flee, but these feelings are almost impossible to articulate.”<sup>140</sup>

In other poems by Howe, the narrative is not as sustained; but rather, the poems contain brief descriptions or allusions to the impacts or long-term consequences of childhood trauma, such as “chronic guilt and shame, a sense of helplessness and ineffectiveness, a sense of being permanently damaged, difficulty trusting others or maintaining relationships, vulnerability to re-victimization, and becoming a perpetrator of trauma.”<sup>141</sup> For instance, Howe depicts the inability

133. HOWE, *Who, in THE KINGDOM OF ORDINARY TIME*, *supra* note 79, at 50.

134. *Id.*

135. *Id.*

136. *Id.*

137. The lines may be a play on Christ’s “world without end” and the contrast with the speaker’s experience of and inevitable and recurring hell on earth. *Ephesians* 3:21 (King James).

138. VAN DER KOLK, *supra* note 9, at 43.

139. *Id.*

140. *Id.*

141. Sarah Katz & Deeya Haldar, *The Pedagogy of Trauma-Informed Lawyering*, 22 *CLINICAL L. REV.* 359, 367 (2016).



to trust others in “The Girl,” in which the speaker is “close to the end of my childbearing life / without children,” presumably in a situation similar to that of Marie Howe, who explained in an interview that she did not want children until she adopted a daughter when she was fifty-two.<sup>142</sup> In “The Girl,” the speaker imagines herself as a girl riding her bike or coming in from swimming.<sup>143</sup> The speaker remembers that the girl “wears a furtive look,” and imagines that “even if I could go back in time to her as me,” the girl “would never come into my arms / without believing that I wanted something.”<sup>144</sup> Like many children who experience trauma, the speaker is not able to trust others.<sup>145</sup> Additionally, the speaker cannot even remember a time “when I was utterly a girl / and not yet a woman.”<sup>146</sup> Presumably, the time of being “utterly a girl” was before she was violated, so in this “narrative memory” (the story she pieced together) she perceives that her girlhood was stolen.<sup>147</sup> This sense of a stolen girlhood also comes across in the brief poem, “Before the Beginning” in Howe’s latest collection, *Magdalene*:

Was I ever virgin?  
Did someone touch me before I could speak?

Who had me before I knew I was an I?

So that I wanted that touch again and again  
without knowing who or why or from whence it came?<sup>148</sup>

This brief poem is spoken in the voice of Mary Magdalene. So it may be interpreted on several levels, as Spencer Reece points out: “[Howe] was always speaking quite closely to us with her poems, except now, she’s slipped on the mask of Mary Magdalene, which gives this poet’s sensibility an eerie new force and authority . . . .”<sup>149</sup> Like Howe’s poem “The Girl,” this poem could be alluding to sexual violence or

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142. HOWE, *The Girl*, in WHAT THE LIVING DO, *supra* note 67, at 37; Gross, *supra* note 1.

143. HOWE, *The Girl*, in WHAT THE LIVING DO, *supra* note 67, at 37.

144. *Id.*

145. VANDER KOLK, *supra* note 9, at 165. Van der Kolk describes the “chronic distrust of other people” that results when children have to disown abusive experiences. *Id.* at 136, 143.

146. HOWE, *The Girl*, in WHAT THE LIVING DO, *supra* note 67, at 37.

147. *Id.* Medical research shows that girl victims of sexual violence go through puberty about a year and a half earlier than non-victims, and experience “chaotic and traumatizing” problems engaging with adolescent boys. VANDER KOLK, *supra* note 9, at 165.

148. HOWE, *Before the Beginning*, in MAGDALENE, *supra* note 79, at 15.

149. Spencer Reece, *Magdalene: Bewilderment in the Poetry of Marie Howe*, THE AM. POETRY REV. 11, 11–12 (2017).

to the touch of God as Reece indicates when he asks whether “Before the Beginning” “harken[s] back to the work in *What the Living Do* where the poems explored inappropriate sexual touch within a family? It could. Maybe. It’s complex. No metaphors and no images assist or distract.”<sup>150</sup>

Childhood trauma not only results in later problems with trust, but also with intimacy and relationships, as Howe depicts in other poems. In “Watching Television,” the speaker and her lover have “argued bitterly,” “for two days / we haven’t spoken.”<sup>151</sup> The lover has left her, and as she stares at the snowy sidewalk, “unbroken by footprints,” she laments in the last line of the poem, “[a]nything I’ve ever tried to keep by force I’ve lost,” indicating a sense of self-blame and worthlessness.<sup>152</sup> Additionally, a separation from her lover triggers the speaker’s suicidal feelings and flashbacks to trauma as seen in the poem “Prayer.”<sup>153</sup> Quoted in full, it reads:

Someone or something is leaning close to me now  
trying to tell me the one true story of my life:

one note,  
low as a bass drum, beaten over and over:

It’s beginning summer,  
and the man I love has forgotten my smell

the cries I made when he touched me, and my laughter  
when he picked me up

and carried me, still laughing, and laid me down,  
among the scattered daffodils on the dining room table.

And Jane is dead,

and I want to go where she went,

where my brother went,

and whoever it is that whispered to me

when I was a child in my father’s bed is come back now:  
and I can’t stop hearing:

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150. *Id.* at 13.

151. HOWE, *Watching Television*, in *WHAT THE LIVING DO*, *supra* note 67, at 67.

152. *Id.*

153. HOWE, *Prayer*, in *WHAT THE LIVING DO*, *supra* note 67, at 73–74.

This is the way it is,  
the way it always was and will be—

beaten over and over—panicking on street corners,  
or crouched in the back of taxicabs,

afraid I'll cry out in jammed traffic, and no one will know me or  
know where to bring me.

There is, I almost remember,  
another story:

It runs alongside this one like a brook beside a train.  
The sparrows know it; the grass rises with it.

The wind moves through the highest tree branches without  
seeming to hurt them.

Tell me.  
Who was I when I used to call your name?<sup>154</sup>

This poem describes the speaker's suicidal feelings and inability to stop hearing the whispering, the experience of panics and flashbacks, in which "[y]ou never know when you will be assaulted by them again and you have no way of telling when they will stop."<sup>155</sup> The speaker is afraid of losing herself and losing control. The speaker has a sense of hopelessness and despair, the story beaten "over and over" is "the way it always was and will be."<sup>156</sup> However, the ending provides another story, the shift from victim to survivor, as indicated by the story the sparrow knows, in which "[t]he wind moves through the highest branches without / seeming to hurt them."<sup>157</sup> The "you" in the last line may be the speaker's survival self, existing parallel to a victim self, just as the second story "runs alongside this one like a brook beside a train."<sup>158</sup>

The title poem in Howe's most recent volume, *Magdalene*, also suggests the debilitating consequences of trauma that we see in "Prayer," and described by Dr. van der Kolk to include

the imprints . . . on body, mind, and soul: the crushing sensations  
in your chest that you may label as anxiety or depression; the fear  
of losing control; always being on alert for danger or rejection;

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154. *Id.*

155. VAN DER KOLK, *supra* note 9, at 16.

156. HOWE, *Prayer*, in *WHAT THE LIVING DO*, *supra* note 67, at 73.

157. *Id.* at 74.

158. *Id.*

the self-loathing; the nightmares and flashbacks; the fog that keeps you from staying on task and from engaging fully in what you are doing; being unable to fully open your heart to another human being.<sup>159</sup>

These effects can be categorized as “negative cognitions about self,” “negative cognitions about the world,” and “self-blame.”<sup>160</sup> Howe’s poem, “Magdalene—The Seven Devils,” uses the mask of the Biblical Magdalene to develop personal experience, in this case the consequences of these traumatic imprints.<sup>161</sup> The poem contains an epigraph from Luke 8:2—“Mary, called Magdalene, from whom seven devils had been cast out.”<sup>162</sup> As Dr. van der Kolk emphasizes, “[p]eople cannot put traumatic events behind until they are able to acknowledge the invisible demons they’re struggling with.”<sup>163</sup> The poem, which is several pages long, describes the devils confronting a contemporary Mary Magdalene.<sup>164</sup> The devils are metaphors for what is bedeviling the speaker, such as “if I walked past the certain place on the street the house would blow up,” “the dead seemed more alive to me than the living,” “no one knew me, although they thought they did,” and “I didn’t belong to anyone. I wouldn’t allow myself to belong to anyone.”<sup>165</sup> These intrusive thoughts fall into the basic categories of “negative cognitions about self,” “negative cognitions about the world,” and “self-blame.”<sup>166</sup> These thoughts represent the secret beliefs that haunt victims of trauma and are generally not spoken aloud.

### III. TRAUMA-INFORMED ADVOCACY

Many law schools now teach trauma-informed advocacy, and the ABA has emphasized the importance of teaching this approach.<sup>167</sup> Many helpful resources exist that provide tools for trauma-informed advocacy, as indicated below in a discussion of the characteristics of trauma-informed advocacy, including risks of secondary trauma and tools for self-care.

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159. VAN DER KOLK, *supra* note 9, at 205.

160. Edna B. Foa et al., *The Posttraumatic Cognitions Inventory (PTCI): Development and Validation*, 11 PSYCHOL. ASSESSMENT 303, 306 (1999).

161. HOWE, *Magdalene—The Seven Devils*, in MAGDALENE, *supra* note 79, at 16–20.

162. *Id.* at 16.

163. VAN DER KOLK, *supra* note 9, at 221.

164. HOWE, *Magdalene—The Seven Devils*, in MAGDALENE, *supra* note 79, at 16–20.

165. *Id.*

166. Foa et al., *supra* note 160, at 306.

167. See A.B.A., *supra* note 11; see also Peña, *supra* note 4, at 14 (claiming “it is unmistakable how much our field would benefit from trauma-informed practices”).

### A. Characteristics of Trauma-Informed Advocacy

Trauma-informed advocacy includes three components: “(1) identifying trauma; (2) adjusting the attorney-client relationship; [and] (3) adapting litigation strateg[ies].”<sup>168</sup> Many times, these skills are taught in a law school clinic; however, some of these skills may also be taught in a doctrinal class.<sup>169</sup> One of the most crucial shifts to make in trauma-informed lawyering is to ask a trauma survivor, “What has happened to you?” rather than, “What’s wrong with you?”<sup>170</sup> The focus on “what has happened” rather than “what’s wrong” allows the attorney to empathize with and empower the client, rather than to further shame and shut down the client.<sup>171</sup> Underlying all of the strategies discussed below is a need to emphasize safety so as not to re-traumatize a victim.<sup>172</sup>

The first component of trauma-informed lawyering is identifying trauma and understanding its effects on the brain.<sup>173</sup> Trauma can be defined as an “experience [which] occurs when an individual subjectively experiences a threat to life, bodily integrity, or sanity.”<sup>174</sup> By identifying and understanding trauma, including adverse childhood experiences, lawyers are better able to empathize with and to represent clients because “[i]dentification and empathy allow an attorney to ‘enter’ into the emotional state of the client, which provides the attorney with a far more complex understanding of the client and the client’s legal needs.”<sup>175</sup> For example, as discussed

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168. Katz & Haldar, *supra* note 141, at 382 (the fourth component of trauma-informed lawyering that Katz and Haldar describe is “preventing vicarious trauma,” which is discussed below. See *supra* Section III.B).

169. See *id.* at 372–73. Additionally, many resources exist that provide practical strategies for representing trauma victims who are adults and those who are children. See *Trauma-Informed Legal Advocacy (TILA) Project*, NAT’L CTR. ON DOMESTIC VIOLENCE, TRAUMA & MENTAL HEALTH, <https://www.nationalcenterdvtraumamh.org/trainingta/trauma-informed-legal-advocacy-tila-project> [<https://perma.cc/H6K3-54EZ>]; *Establishing a Trauma-Informed Lawyer-Client Relationship*, A.B.A. (Oct. 1, 2014), [https://www.americanbar.org/groups/public\\_interest/child\\_law/resources/child\\_law\\_practiceonline/child\\_law\\_practice/vol-33/october-2014/establishing-a-trauma-informed-lawyer-client-relationship](https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol-33/october-2014/establishing-a-trauma-informed-lawyer-client-relationship) [<https://perma.cc/L7VL-CCZ6>]. Because representing children who have witnessed trauma requires additional and specialized considerations, this Article focuses more generally on strategies for representing adults.

170. Sara E. Gold, *Trauma: What Lurks Beneath the Surface*, 24 CLINICAL L. REV. 201, 229 (2018).

171. *Id.* at 229–30; see also Peña, *supra* note 4, at 15 (warning that an attorney who fails to use trauma-informed advocacy “runs the risk of alienating her client. An alienated client is generally less forthcoming, less cooperative, and less dependable”).

172. See Gold, *supra* note 170, at 243.

173. See Katz & Haldar, *supra* note 141, at 386.

174. Sarah Katz, *Trauma-Informed Practice: The Future of Child Welfare?*, 28 WIDENER COMMONWEALTH L. REV. 51, 53 (2019).

175. Katz & Haldar, *supra* note 141, at 377.

above, trauma can impact how the brain stores memories,<sup>176</sup> and it can also impact the way a survivor comes across—as unemotional and with a flat affect, as angry and suspicious, or as emotional and wanting to provide a flood of information.<sup>177</sup>

Understanding trauma is a prerequisite to the second component of trauma-informed lawyering: developing a flexible or adaptive attorney-client relationship. Important strategies for lawyers include being transparent about “why they are asking [certain] questions,” advising clients about what to expect in court and “what lies ahead in terms of the lawyer-client relationship and the broader legal process,” and, finally, ensuring that clients feel safe.<sup>178</sup> For instance, trauma-informed lawyering requires understanding different possible emotional stances a client may exhibit, and being prepared to try different strategies in different situations. Thus, rather than expecting a trauma survivor to tell a linear story, a lawyer must patiently listen to a client fit the pieces of the puzzle together, and a lawyer may have to meet more than once for a client to tell a coherent narrative.<sup>179</sup>

Part of adjusting the attorney-client relationship is responding to clients with empathy, based on an understanding of the impacts of trauma.<sup>180</sup> For instance, lawyers should understand that a typical client response to trauma might include a domestic violence victim who wants to withdraw a protective order, or a client who fails to show up for appointments.<sup>181</sup> Moreover, lawyers should realize that trauma victims may develop unhealthy coping mechanisms, such as substance abuse, so lawyers should consider referring such clients to mental health providers.<sup>182</sup>

A third component of trauma-informed lawyering is adapting strategies for litigation. As Katz and Haldar point out,

clients with trauma experience can make terrible witnesses for a variety of reasons. First, because the brain stores memories in mismatched ways, the client may be unable to present a linear

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176. See *supra* discussion accompanying notes 22–32.

177. Katz & Haldar, *supra* note 141, at 387; see also Gohara, *supra* note 12, at 22–24 (2018) (providing vignettes demonstrating “how trauma’s constellation of symptoms plays out in three criminal justice scenarios”).

178. Gold, *supra* note 170, at 234–37.

179. See *id.* at 238 (recommending that a lawyer allow a client to tell the story uninterrupted, and that “[t]he lawyer must become comfortable with pauses and periods of silence,” as well as to let the client know that he or she can share additional and even different information at a later date).

180. See Katz & Haldar, *supra* note 141, at 377 (noting that “[i]dentification and empathy allow an attorney to ‘enter’ into the emotional state of the client, which provides the attorney with a far more complex understanding of the client and the client’s legal needs”).

181. *Id.* at 388.

182. *Id.* at 381.

narrative. Second, the client may not remember key elements of what occurred; while this may make a trier of fact question client's credibility, it is a normal trauma reaction. Third, a client's emotions or lack thereof may unnerve or misguide the trier of fact; the client may appear with a flat affect; or the client may want to tell the full story in a rush of hysterical emotion; or the client may appear angry (thus making [the client] seem like the aggressor) or the client may simply disassociate and not be able to articulate what happened at all.<sup>183</sup>

As a result of these negative impacts of trauma, attorneys need to spend extra time preparing clients for trials or hearings. This extra preparation may result in a more positive outcome and may also prevent re-traumatization.<sup>184</sup> Attorneys representing clients in criminal proceedings must also “present evidence explaining how [traumatic] experiences mitigate their clients' blameworthiness . . . [and] argue for penalties that will rehabilitate and treat the underlying reasons their clients caused harm.”<sup>185</sup>

Perhaps the most valuable benefits of trauma-informed advocacy include empowering clients and giving clients “a sense of ‘voice,’ the ability to tell their side of the story, and ‘validation,’ the sense that what they have to say is taken seriously.”<sup>186</sup>

### *B. Secondary Trauma*

“Trauma overwhelms listeners as well as speakers.”<sup>187</sup> During and after Blasey Ford's testimony before the Senate Judiciary Committee, viewers described the trauma they themselves felt—especially if they had experienced sexual assault in the past.<sup>188</sup> Listening to testimony about a traumatic experience overwhelms many, and thus, part of trauma-informed advocacy involves teaching lawyers and law students to be aware of secondary trauma and to learn ways to take care of themselves.<sup>189</sup>

183. *Id.* at 389–90.

184. *Id.*

185. Gohara, *supra* note 12, at 31 (discussing sentencing and policy reforms that take into account individual adversity).

186. Katz & Haldar, *supra* note 141, at 375.

187. VAN DER KOLK, *supra* note 9, at 245.

188. See Deborah Horne, Sexual Trauma Experts Weigh in on Blasey Ford's Memory Lapses, KIRO7 (Oct. 25, 2018, 4:26 PM), <https://www.kiro7.com/news/sexual-trauma-experts-weigh-in-on-blasey-ford-s-memory-lapses/843376229> [<https://perma.cc/7V67-L928>] (quoting a protester who had been abused as a child, who stated, “I finally came forth when I was in my 40s . . . When Sen. Grassley was making his introductory statement, I was watching her try to control her breathing. . . . And I ended up absolutely in tears. It brought everything back to me, every single thing”).

189. See A.B.A., *supra* note 11; see also Oehme & Stern, *supra* note 18, at 1335–36 (arguing that lawyers and law students should also be aware of their own ACE scores

Secondary trauma results from being exposed to others' traumatic experiences, and occurs as "a state of tension or preoccupation with clients' stories of trauma. It may be marked by either an avoidance of clients' trauma histories (almost a numbness to the trauma) or by a state of persistent hyperarousal."<sup>190</sup> A lawyer (or other care provider) may "incorporate these [traumatic] memories into their own memory systems."<sup>191</sup> Some of secondary trauma symptoms are "denial . . . or over-identification with clients' [trauma], no time and energy for oneself, feelings of great vulnerability, . . . alienation, . . . generalized despair and hopelessness, loss of feeling secure, increased sensitivity to violence, . . . impaired ego resources, and alterations in sensory experiences."<sup>192</sup>

Many assessment tools exist to evaluate secondary trauma, which if ignored, may "progress into physical and psychological disorders."<sup>193</sup> Students enrolled in law clinics may address secondary trauma by acknowledging what they are feeling, and talking about it with colleagues or therapists, engaging in case rounds, or writing about how they are being affected by clients' traumas in journal assignments.<sup>194</sup> Similarly, the way some poets have dealt with trauma (primary or secondary) is by *writing* about it.

Silence about trauma . . . leads to death—the death of the soul. Silence reinforces the godforsaken isolation of trauma. Being able to say aloud to another human being, 'I was raped' or 'I was battered by my husband' or 'My parents called it discipline, but it was abuse' or 'I'm not making it since I got back from Iraq,' is a sign that healing can begin.<sup>195</sup>

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and their own childhood traumas because this would provide "opportunities for healing with research-informed practices, creating hope that they can build resilience to be better prepared to deal with future stress").

190. Katz & Haldar, *supra* note 141, at 368.

191. *Id.*

192. *Id.* at 369.

193. Major Evan R. Seamone, *Sex Crimes Litigation as Hazardous Duty: Practical Tools for Trauma-Exposed Prosecutors, Defense Counsel, and Paralegals*, 11 OHIO ST. J. CRIM. L. 487, 548 (2014) (see the Conclusion for reproduced copies of various assessment scales and discussion of assessment tools).

194. See Katz & Haldar, *supra* note 141, at 390–92. As Dr. van der Kolk explains, writing allows us to say things we would not say out loud. In writing, "[y]ou are free to go into a sort of trance state in which your pen (or keyboard) seems to channel whatever bubbles up from inside. You can connect those self-observing and narrative parts of your brain without worrying about the [social] reception you'll get." VAN DER KOLK, *supra* note 9, at 240. He recommends free writing ("Simply write the first thing that comes to your mind as you look at the object in front of you and then keep going without stopping, rereading, or crossing out. A wooden spoon on the counter may trigger memories of making tomato sauce with your grandmother—or of being beaten as a child."). *Id.* He also describes James Pennebaker's study with his psychology students in which writing about traumas helped heal emotional and physical problems. *Id.* at 241–42.

195. VAN DER KOLK, *supra* note 9, at 234.



Poetry has saved some poets' lives, by allowing them to give words to experience.<sup>196</sup> For example, Etheridge Knight stated that "I died in Korea from a shrapnel wound and narcotics resurrected me. I died in 1960 from a prison sentence and poetry brought me back to life."<sup>197</sup> Similarly, in a poem about her mother's murder resulting from domestic violence, Natasha Trethewey writes in "Imperatives for Carrying on in the Aftermath": "Remember you were told / by your famous professor, that you should / write about something else."<sup>198</sup> In commenting on this poem, Trethewey states, "I have lived in the aftermath of losing my mother for thirty-one years. Carrying that grief, that wound, is one of the reasons I am a poet."<sup>199</sup>

Another poet, Yusef Komunyakaa, who won the Pulitzer Prize in 1994, wrote about his experience serving in the Vietnam War in 1969–1970<sup>200</sup> in the collection *Dien Cai Dau*.<sup>201</sup> He received the Bronze Star for his service in the Americal Division, where he saw combat and also served as a reporter and managing editor for the newspaper, *Southern Cross*.<sup>202</sup> About reporting, he has said,

For my first six months in Vietnam, I was pretty much out in the field every day. Whenever there was any kind of conflict or engagement, I'd be ferried out on a helicopter to the action—to the middle of it—and I had to report, I had to witness.<sup>203</sup>

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196. See JUDITH HARRIS, SIGNIFYING PAIN: CONSTRUCTING AND HEALING THE SELF THROUGH WRITING, 19–20 (2003) (quoting Judith Herman that "[g]hosts come back to haunt. Murder will out. Remembering and telling the truth about terrible events are prerequisites for the restoration of social order and the healing of individual victims").

197. C. Gerald Fraser, *Etheridge Knight Is Dead at 57; Began Writing Poetry in Prison*, N.Y. TIMES (Mar. 14, 1991), <https://www.nytimes.com/1991/03/14/obituaries/etheridge-knight-is-dead-at-57-began-writing-poetry-in-prison.html> [<https://perma.cc/8ZZW-ZBY5>]; see also David Wojahn, *Can Poetry Save Your Life? A Brief Investigation*, 14 BLACKBIRD (2015), [https://blackbird.vcu.edu/v14n1/nonfiction/wojahn\\_d/poetry\\_page.shtml](https://blackbird.vcu.edu/v14n1/nonfiction/wojahn_d/poetry_page.shtml) [<https://perma.cc/X5MZ-XFZA>] (last visited Nov. 24, 2019).

198. Natasha Trethewey, *Imperatives for Carrying On in the Aftermath*, POETS.ORG, <https://www.poets.org/poetsorg/poem/imperatives-carrying-aftermath> [<https://perma.cc/6ZBD-JFB5>] (last visited Nov. 24, 2019).

199. *Id.*

200. Interview by Dan Webster with Yusef Komunyakaa (Apr. 20, 2006), reprinted in CONVERSATIONS WITH YUSEF KOMUNYAKAA 175 (Shirley A. James Hanshaw ed., 2010) [hereinafter CONVERSATIONS]. Yusef Komunyakaa says,

I was stationed in Chu Lai. I served with the Americal Division. At that particular time I think it was the largest division, around 24,000–25,000 troops. The first six months I was pretty much out in the field every day, and the last six months I was able to spend a little more time in the rear.

*Id.*

201. DIEN CAI DAU (1988), means "crazy" in Vietnamese, and was pronounced as "deenk-ee-dow" by the American soldiers. *Id.* at 177; Interview by Rebekah Presson with Yusef Komunyakaa (1995), reprinted in CONVERSATIONS, *supra* note 200, at 22.

202. Interview by William Baer with Yusef Komunyakaa (Summer/Fall 1998), reprinted in CONVERSATIONS, *supra* note 200, at 72.

203. *Id.*

He was not able to write poetry about the trauma of the Vietnam War for thirteen years—he has said that the writing was a “letting go that was necessary” to “deal[] with the [frightening] images inside of my head.”<sup>204</sup>

Likewise, Ocean Vuong is a contemporary poet who has written about traumas suffered by refugees of the Vietnam War, as well as by the next generation of children of these refugees, such as himself.<sup>205</sup> In other words, the trauma Vuong writes about is “postmemory,” a term Marianne Hirsch coined as a way “to describe the problematic situation of the children of Holocaust survivors whose lives may be dominated by inassimilable traumatic events of which they have no personal memory.”<sup>206</sup> Hirsch believes postmemory can be applied to other “second-generation memories of cultural or collective traumatic events and experiences.”<sup>207</sup> In his collection of poems, *Night Sky with Exit Wounds*, Vuong includes poems about the postmemory traumas of the Vietnam War he heard from his mother and grandmother, such as his grandmother’s rape by American soldiers, which he refers to in “Notebook Fragments”: “An American soldier fucked a Vietnamese farmgirl. Thus my mother exists. / Thus I exist. Thus no bombs = no family = no me.”<sup>208</sup> He also describes in the poem “Logophobia” how writing became therapy for him.<sup>209</sup> The third stanza reads:

Quickly—  
I drill the ink  
into a period.  
The deepest hole,  
where the bullet,

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204. Interview by David Houghtaling with Yusef Komunyakaa (Feb. 24, 1989), *reprinted in* CONVERSATIONS, *supra* note 200, at 16.

205. He was born in Saigon in 1988, and immigrated to the States with his parents when he was two. Ocean Vuong, *Surrendering*, THE NEW YORKER (May 30, 2016), <https://www.newyorker.com/magazine/2016/06/06/ocean-vuong-immigrating-into-english> [<https://perma.cc/DYA2-N67F>]. They settled in Hartford, but soon after, his father was imprisoned for assaulting his mother. Daniel Wenger, *How a Poet Named Ocean Means to Fix the English Language*, THE NEW YORKER (Apr. 7, 2016), <https://www.newyorker.com/books/page-turner/how-a-poet-named-ocean-means-to-fix-the-english-language> [<https://perma.cc/QGG2/SHUZ>]. His parents subsequently divorced, and he was raised by his mother and grandmother, who inevitably told him stories about the horrors of the war. *Id.*

206. Sinéad McDermott, *The Ethics of Postmemory in Bobbie Ann Mason’s In Country*, 39 J. MIDWEST MOD. LANGUAGE ASS’N 5, 8 (2006); *see also* Marianne Hirsch, *Family Pictures: Maus, Mourning, and Post-Memory*, 15 DISCOURSE 3, 8 (1992–93) (defining post-memory as “that of the child of the survivor whose life is dominated by memories of what preceded his/her birth”).

207. McDermott, *supra* note 206, at 8.

208. OCEAN VUONG, *Notebook Fragments*, in NIGHT SKY WITH EXIT WOUNDS 68, 70 (2016).

209. OCEAN VUONG, *Logophobia*, in NIGHT SKY WITH EXIT WOUNDS 80–81 (2016).

after piercing  
 my father's back,  
 has come  
 to rest.<sup>210</sup>

The speaker, who responds by freezing after discovering his father, finds a way through trauma by writing. The last line of the third stanza and the final stanza read:

Quickly—I climb  
  
 inside.  
 I enter  
 my life  
 the way words  
 entered me—  
 by falling  
 through  
 the silence  
 of this wide  
 open mouth.<sup>211</sup>

For the speaker, the way out of trauma is through it (“I climb / inside”).<sup>212</sup> In this dreamy poem, primary colors become blurry, like “the blue blur / of bones.”<sup>213</sup> The “wide / open mouth” is like the period and the hole, which the speaker describes. The way out is the way through words. The speaker is able to open into his life “by falling / through / the silence.”<sup>214</sup> The speaker drops from the wide open mouth to the earth of blue bones and the earth containing his father. Writing about family stories and traumatic experiences provides a way for the speaker to finally enter his life.

Similarly, it is likely that writing about her brother's death and her father's abuse and alcoholism helped Howe process trauma. As poet and critic Leslie Ullman has commented, “[s]uffering is not the subject of these [personal] poems, but one often has the impression they provide, for the writer, purchase against a potentially paralyzing despair; in this regard they move energy away from a suffering self, leaving a *sensate* self.”<sup>215</sup> Howe's poems about childhood abuse

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210. *Id.* at 80.

211. *Id.* at 80–81.

212. *Id.* at 80.

213. *Id.*

214. *Id.* at 81.

215. ULLMAN, *supra* note 92, at 66 (discussing the poetry of Linda Pastan, Jack Gilbert, Jane Kenyon, and William Stafford). Ullman describes these poems as “acts of meditation more than they are confessions. They may refer to suffering but in the moment of their

track a process in which the child can become “human again” and can “one day / love a man.”<sup>216</sup> As Howe has said, “[w]e’re so hungry for what poetry offers us. It is, I think, the deepest song of human consciousness and we go to poetry at the crucial moments of our life.”<sup>217</sup>

### CONCLUSION

Literature can be used as a teaching tool in law classes and clinics to help students understand and empathize with difficult topics, such as trauma resulting from domestic violence or childhood abuse. When I have used poetry to illustrate these topics, students have reported that when they have read a poem about domestic violence, they have “*felt* the dramatized punches and bruises,” and that the poem was “accessible, and ‘more personal’” than the typically dry facts presented in case books.<sup>218</sup> Similarly, when I have used literature to illustrate the impact of sexual violence, students have found that poetry often conveys a greater emotional impact than fiction.<sup>219</sup> As Marie Howe has said, “[E]very poem holds the unspeakable inside it, the unsayable . . . the thing that you really can’t say because it’s too complicated, it’s too complex for us.”<sup>220</sup> Poetry can convey the “speechless horrors” of trauma in a way that can be immediately understood because “[i]t is the ability of metaphor to elicit large, nonverbal perceptions that is one of the great strengths of poetry and what can make a poem convincing.”<sup>221</sup>

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utterance have claimed breathing space from that suffering, are curiously at rest.” *Id.* at 65. Because Howe’s poems describe such an emotionally laden type of trauma, they may be more difficult to read. Nonetheless, the sense of meditation and prayer is evident in many of Howe’s poems, including “The Attic,” with the repetition of “praise him.” HOWE, *supra* note 67, at 28–29.

216. HOWE, *The Mother, in* WHAT THE LIVING DO, *supra* note 67, at 25; HOWE, *The Attic, in* WHAT THE LIVING DO, *supra* note 67, at 29.

217. Mark Matousek, *Poetic Justice: Marie Howe Named New York Laureate*, HUFFINGTON POST (Nov. 20, 2012), [https://www.huffpost.com/entry/marie-howe-ny-laureate\\_b\\_1896683](https://www.huffpost.com/entry/marie-howe-ny-laureate_b_1896683) [<https://perma.cc/4XYV-SQ82>].

218. Ayres, *supra* note 12, at 333, 349.

219. Student Comments in the Law and Literature Seminar Course (Spring 2017) (on file with author). In this class the comparison was not between poetry and case law, but Howe’s poetry and fiction (*A Thousand Acres* by Jane Smiley). While some students believed poetry provided a stronger impact than fiction, others believed fiction provided a stronger impact because it was not as ambiguous and because it had stronger character development than poetry. As one student replied, “fiction forces the reader to get to know the characters and therefore leaves a more profound impact.” *Id.* Of course, in most law classes, there is not enough time to assign students novels, whereas poetry has the benefit of being compact, so it can be more easily assigned in a traditional law class. See also Susan Ayres, *Incest in A Thousand Acres: Cheap Trick or Feminist Revision*, 11 TEX. J. WOMEN & L. 131, 148–49 (2001) (discussing Smiley’s *A Thousand Acres* as a feminist rewriting of Shakespeare’s *King Lear*).

220. Gross, *supra* note 1.

221. DOBYNS, *supra* note 53, at 21.

Ultimately, understanding trauma's horrors allows an empathetic understanding and provides a path to help lawyers become better advocates for clients suffering from trauma, such as Howe's girl in the attic, or women such as Dr. Blasey Ford, war veterans, undocumented immigrants, and other victims of trauma. It is important to remember that "[t]rauma-informed lawyering is not a step-by-step formula. . . . [I]t rests upon characteristics intrinsic to all positive human relationships: empathy, responsive listening, restraint from judgment, demonstration of authentic care and concern."<sup>222</sup> Because "poets remain the most 'stunned by existence,' the most determined to redeem the world in words,"<sup>223</sup> poetry and narrative belong in the toolbox of trauma-informed lawyering.

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222. Talia Kraemer & Eliza Patten, *Establishing a Trauma-Informed Lawyer-Client Relationship (Part One)*, 33 A.B.A. CHILD L. PRACTICE 197, 199 (2014), [https://www.lsc-sf.org/wp-content/uploads/2015/10/Article\\_Establishing-a-Trauma-Informed-Lawyer-Client-Relationship.pdf](https://www.lsc-sf.org/wp-content/uploads/2015/10/Article_Establishing-a-Trauma-Informed-Lawyer-Client-Relationship.pdf).

223. WRIGHT, *supra* note 51, at 55.