

5-1-2019

## Improving Lawyers' Health by Addressing the Impact of Adverse Childhood Experiences

Karen Oehme  
*Florida State Univeresity*

Nat Stern  
*Florida State University*

Follow this and additional works at: <https://scholarship.richmond.edu/lawreview>



Part of the [Courts Commons](#), [Family Law Commons](#), [Judges Commons](#), [Law and Society Commons](#), [Legal Ethics and Professional Responsibility Commons](#), [Legal Profession Commons](#), [State and Local Government Law Commons](#), and the [Supreme Court of the United States Commons](#)

---

### Recommended Citation

Karen Oehme & Nat Stern, *Improving Lawyers' Health by Addressing the Impact of Adverse Childhood Experiences*, 53 U. Rich. L. Rev. 1311 (2019).

Available at: <https://scholarship.richmond.edu/lawreview/vol53/iss4/8>

This Article is brought to you for free and open access by the Law School Journals at UR Scholarship Repository. It has been accepted for inclusion in University of Richmond Law Review by an authorized editor of UR Scholarship Repository. For more information, please contact [scholarshiprepository@richmond.edu](mailto:scholarshiprepository@richmond.edu).

## IMPROVING LAWYERS' HEALTH BY ADDRESSING THE IMPACT OF ADVERSE CHILDHOOD EXPERIENCES

*Karen Oehme* \*  
*Nat Stern* \*\*

*Trauma is to mental health as smoking is to cancer!*<sup>1</sup>

### ABSTRACT

*Although the legal profession has recognized the importance of improving attorneys' mental health, it has largely ignored recent social and scientific research on how adverse childhood experiences ("ACEs") can harm attorneys' long-term well-being. This article reviews the science of ACEs and argues that law schools and the legal profession should educate law students and attorneys about the impact of prior trauma on behavioral health. Without such education, law schools and the legal system are missing a crucial opportunity to help lawyers prevent and alleviate the maladaptive coping mechanisms that are associated with ACEs. Until such knowledge is widespread, many lawyers will be plagued by their own trauma histories—to the detriment of individuals, families, communities, and the legal system.*

---

\* Director, Institute for Family Violence Studies, and Distinguished University Scholar, Florida State University.

\*\* John and Ashley E. Frost Professor of Law, Florida State University College of Law.

1. Arielle Levin Becker, *The Single Greatest Preventable Cause of Mental Illness*, CT MIRROR (Apr. 17, 2013), <https://ctmirror.org/2013/04/17/single-greatest-preventable-cause-mental-illness/> [<https://perma.cc/T433-FF3Q>] (quoting Dr. Steven Sharfstein, former president of the American Psychiatric Association).

TABLE OF CONTENTS

INTRODUCTION .....1313

I. THE ALARMING RATE OF LAWYERS' MENTAL ILLNESS.....1315

II. THE DEVASTATING EFFECTS OF CHILDHOOD ADVERSITY REVEALED BY  
NEUROSCIENCE .....1323

III. ATTEMPTS TO IMPROVE LAWYER WELLNESS .....1329

IV. IMPROVING LAWYERS' RESILIENCE THROUGH NEW EDUCATION ON TRAUMA .1334

CONCLUSION .....1338

## INTRODUCTION

Recent national attention to adult mental health as a public health issue<sup>2</sup> has produced a broad call to all parts of society to teach stress management and wellness.<sup>3</sup> Although a major focus in the past has been on the mental wellness of veterans,<sup>4</sup> first responders,<sup>5</sup> and criminal justice officers,<sup>6</sup> the need to help members of other “high performing professions,”<sup>7</sup> like physicians<sup>8</sup> and

---

2. See Ctrs. for Disease Control & Prevention, *The Role of Public Health in Mental Health Promotion*, 54 MORBIDITY & MORTALITY WKLY. REP. 841, 841 (2005).

3. See, e.g., *Cultural Perspectives on Mental Health*, UNITE FOR SIGHT, <https://www.uniteforsight.org/mental-health/module7> [<https://perma.cc/YQ9G-F52X>] (last visited Apr. 1, 2019) (stating mental health care services should be presented in culturally sensitive ways in order for all parts of society to better understand mental illness); *Mental Health Problems in the Workplace*, HARV. HEALTH PUB. (Feb. 2010), [https://www.health.harvard.edu/newsletter\\_article/mental-health-problems-in-the-workplace](https://www.health.harvard.edu/newsletter_article/mental-health-problems-in-the-workplace) [<https://perma.cc/R8S9-2A3H>] (stating that adequate treatment for mental illness in the workplace “requires a shift in attitudes about the nature of mental health disorders”); *Mental Illness in U.S. Adults Widespread*, CBS NEWS (Nov. 21, 2014, 4:53 PM), <https://www.cbsnews.com/news/mental-illness-in-us-adults-widespread/> [<https://perma.cc/P68K-KFK6>] (stating that mental illness is more openly spoken about and recognized as common); Kathleen Weldon, *Public Attitudes About Mental Health*, HUFFPOST (Apr. 29, 2015, 2:27 PM ET), [https://www.huffpost.com/entry/public-attitudes-about-me\\_n\\_7160960](https://www.huffpost.com/entry/public-attitudes-about-me_n_7160960) [<https://perma.cc/BPD3-SHCL>] (stating that mental health care in the United States has experienced significant changes in the last decade). But see Lisa Ferentz, *The Perception of Mental Illness: Stigma or Reality*, PSYCHOL. TODAY (May 27, 2016), <https://www.psychologytoday.com/us/blog/healing-trauma-s-wounds/201605/the-perception-mental-illness-stigma-or-reality> [<https://perma.cc/QE3V-SAHL>] (stating that although people are more willing to talk about mental health, individuals continue to avoid treatment because of stigma and discrimination).

4. See TERRI TANIELIAN ET AL., RAND CTR. FOR MILITARY HEALTH POLICY RESEARCH, *INVISIBLE WOUNDS: MENTAL HEALTH AND COGNITIVE CARE NEEDS OF AMERICA'S RETURNING VETERANS 1–4* (2008), [https://www.rand.org/content/dam/rand/pubs/research\\_briefs/2008/RAND\\_RB9336.pdf](https://www.rand.org/content/dam/rand/pubs/research_briefs/2008/RAND_RB9336.pdf) [<https://perma.cc/VL7U-QHMS>]. This report stated that since 2001, approximately 1.64 million troops have been sent to Afghanistan and Iraq, and often return home with combat-related stress and trauma. *Id.* at 1 (emphasizing the importance of caring for the mental illnesses of veterans to ensure the future of the military force).

5. See Gabriele Prati & Luca Pietrantonio, *The Relation of Perceived and Received Social Support to Mental Health Among First Responders: A Meta-Analytic Review*, 38 J. COMMUNITY PSYCHOL. 403, 403–06, 410–11 (2010) (reviewing the role of social support in promoting mental health among first responders).

6. See Law Enforcement Mental Health and Wellness Act of 2017, Pub. L. No. 115-113, §§ 3–4, 131 Stat. 2276, 2276–77 (codified at 34 U.S.C. § 10381); Simone Weichselbaum, *A New Emphasis on Mental Health for Cops, Other Officers*, USA TODAY (June 14, 2017, 7:32 AM ET), <https://www.usatoday.com/story/news/2017/06/14/new-emphasis-mental-health-cops-other-officers/102677982/> [<https://perma.cc/U4BF-4PXP>] (reviewing new stress management training for correctional and police officers).

7. See Svetlana Stankovic, *‘I Cried Every Day at Work’: Mental Health Among Doctors Is Still Taboo*, GUARDIAN (July 4, 2017, 1:34 EDT), <https://www.theguardian.com/commentisfree/2017/jul/04/mental-health-among-doctors-still-a-taboo-in-a-high-performing-profession> [<https://perma.cc/82A9-GJ5G>].

8. See Jodie Eckleberry-Hunt et al., *Self-Report Study of Predictors of Physician*

lawyers,<sup>9</sup> has also gained prominence. In 2017, the National Task Force on Lawyer Well-Being (“National Task Force”) published a report calling for a “movement to improve well-being in the legal profession.”<sup>10</sup> Prior efforts to promote lawyer health and wellness have primarily emphasized the secondary trauma attorneys suffer from assisting clients in high-stress criminal and civil litigation.<sup>11</sup> Though the National Task Force report is a commendable attempt to support lawyers in navigating career stress, its focus largely ignores what the Centers for Disease Control and Prevention (“CDC”) calls a basis for much of adult physical and emotional health problems: adverse childhood experiences (“ACEs”).<sup>12</sup> Because childhood trauma is so widespread throughout the population,<sup>13</sup> many attorneys experience ACEs that create long-term negative adult health outcomes if not resolved. ACEs can increase sensitivity to stress and amplify an individual’s response to even minor stressors in adulthood.<sup>14</sup> Thus, ACEs can cause hidden and ignored scars, which can reduce adults’ ability to deal with subsequent career and life stress.<sup>15</sup>

Without directly and openly addressing the crucial issue of childhood adversity in the national legal community conversation,

---

*Wellness, Burnout, and Quality of Patient Care*, 110 S. MED. J. 244, 244–46 (2017) (examining the relationship between work, health, mental health, and perceived support to physician wellness, burnout, and patient care).

9. See generally Bree Buchanan & James C. Coyle, *Preface* to NAT’L TASK FORCE ON LAWYER WELL-BEING, THE PATH TO LAWYER WELL-BEING: PRACTICAL RECOMMENDATIONS FOR POSITIVE CHANGE (2017), <https://www.americanbar.org/content/dam/aba/images/abanews/ThePathToLawyerWellBeingReportRevFINAL.pdf> [<https://perma.cc/UT76-Y43Y>] (“To be a good lawyer, one has to be a healthy lawyer . . . too many lawyers and law students experience chronic stress . . . depression . . . and substance use.”).

10. *Id.*

11. See NAT’L TASK FORCE ON LAWYER WELL-BEING, *supra* note 9, at 7, 11, 22–23, 32; see also Yael Fischman, *Secondary Trauma in the Legal Professions, A Clinical Perspective*, 18 TORTURE 107, 109–10 (2008).

12. See 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, 251, 254 (1998) (connecting ACEs to long-term health problems); Paula S. Nurius et al., *Life Course Pathways of Adverse Childhood Experiences Toward Adult Psychological Well-Being: A Stress Process Analysis*, 45 CHILD ABUSE & NEGLECT 143, 143–44 (2015) (discussing the long-term impact of ACEs on psychological well-being).

13. See SUBSTANCE ABUSE & MENTAL HEALTH SERVS. ADMIN., SAMHSA’S CONCEPT OF TRAUMA AND GUIDANCE FOR A TRAUMA-INFORMED APPROACH 2, 5 (2014) [hereinafter SUBSTANCE ABUSE], <https://store.samhsa.gov/system/files/sma14-4884.pdf> [<https://perma.cc/L3HF-D22M>].

14. See, e.g., Canan Karatekin, *Adverse Childhood Experiences (ACEs), Stress and Mental Health in College Students*, 34 STRESS & HEALTH 36, 36–37 (2017) (stating that chronic stress early in life may make individuals more vulnerable to stress in their later lives).

15. *Id.*

attempts at increasing lawyer wellness will inevitably fall short. Part I of this article describes what has been called the “elephant in the classroom”:<sup>16</sup> reported rates of attorney depression, substance abuse, anxiety, suicide, stress, and other indicia of mental illness. This part describes the struggles that attorneys report that cause career dissatisfaction and disillusion. Part I also provides a historical perspective of post-traumatic stress disorder (“PTSD”) and the concept of secondary traumatic stress, two mental health problems linked to experiencing stressful events either firsthand or through other people who experienced them personally. Part II describes the research and neuroscience of ACEs, and examines the CDC’s conclusion that much of adult physical and mental illness has its roots in the unresolved trauma of childhood adversity. This research, revealing ACEs as the “*prime* determinant of the health, social, and economic well-being of our nation,”<sup>17</sup> has been mainly ignored by the legal community as it searches for ways to improve lawyers’ quality of life. Calls for lawyers and judges to be informed about the trauma that their clients might have suffered are a rare exception. Part III reviews the efforts the legal community has made to help attorneys improve their mental health, including mandates in some states on learning about substance abuse and voluntary continuing education on self-care and stress management. Part IV emphasizes that if the American Bar Association (“ABA”) is sincere in its call for a “wide-eyed and candid assessment”<sup>18</sup> of lawyers’ well-being, a truly “courageous commitment”<sup>19</sup> requires its members to be educated about the effects of childhood trauma. This part also provides suggestions on new policies and training, both at the law school level and in continuing legal education mandates.

### I. THE ALARMING RATE OF LAWYERS’ MENTAL ILLNESS

For the general adult population, the statistics about mental illness are grim. Approximately 18.5% of the United States adult

---

16. Brittany Stringfellow Otey, *Buffering Burnout: Preparing the Online Generation for the Occupational Hazards of the Legal Profession*, 24 S. CAL. INTERDISC. L.J. 147, 150 (2014).

17. ROBERT F. ANDA & VINCENT J. FELITTI, NAT’L COUNCIL, ADVERSE CHILDHOOD EXPERIENCES AND THEIR RELATIONSHIP TO ADULT WELL-BEING AND DISEASES: TURNING GOLD INTO LEAD (2012), <https://www.thenationalcouncil.org/wp-content/uploads/2012/11/Natl-Council-Webinar-8-2012.pdf> [<https://perma.cc/54F5-5MC6>].

18. See Buchanan & Coyle, *supra* note 9.

19. *Id.*

population—totaling over forty million people—suffer from mental illness each year.<sup>20</sup> About one in twenty-five adults—9.8 million people—experience a serious mental illness that “substantially interferes with or limits one or more major life activities.”<sup>21</sup> Depression, one of the most common forms of mental illness, is a leading cause of disability in the United States.<sup>22</sup> The CDC reports that 8.1% of adults in the United States experienced depression during any given two-week period between 2013 and 2016.<sup>23</sup> The National Institute of Mental Health estimates that 16.2 million adults, 6.7%, had at least one major depressive episode in 2016.<sup>24</sup> As the incidence of mental illness increases,<sup>25</sup> suicide rates in the United States have also increased;<sup>26</sup> these are the highest levels in almost three decades,<sup>27</sup> constituting a public health crisis.<sup>28</sup> The CDC reported a “steady, stubborn rise in the national suicide rate, up 25 percent since 1999.”<sup>29</sup> Because mental health problems are more stigmatized than physical illness<sup>30</sup> and mental illness is generally

---

20. *Mental Health by the Numbers*, NAT'L ALLIANCE ON MENTAL ILLNESS, <https://naami.org/learn-more/mental-health-by-the-numbers> [<https://perma.cc/45EV-28S2>] (last visited Apr. 1, 2019).

21. *Id.*

22. *Major Depression*, NAT'L INST. MENTAL HEALTH, <https://www.nimh.nih.gov/health/statistics/major-depression.shtml> [<https://perma.cc/FMV5-B79S>] (last visited Apr. 1, 2019).

23. DEBRA J. BRODY ET AL., CTRS. FOR DISEASE CONTROL & PREVENTION, PREVALENCE OF DEPRESSION AMONG ADULTS AGED 20 AND OVER: UNITED STATES, 2013–2016, at 1 (2018), <https://www.cdc.gov/nchs/data/databriefs/db303.pdf> [<https://www.perma.cc/674S-SMSP>].

24. *Major Depression*, *supra* note 22.

25. Lindsay Holmes, *Mental Illness Is on the Rise but Access to Care Keeps Dwindling*, HUFFPOST (Apr. 17, 2017, 9:10 AM ET), [https://www.huffpost.com/entry/mental-illness-is-on-the-rise-but-access-to-care-keeps-dwindling\\_n\\_58ee9a13e4b0da2ff85de60a](https://www.huffpost.com/entry/mental-illness-is-on-the-rise-but-access-to-care-keeps-dwindling_n_58ee9a13e4b0da2ff85de60a) [<https://perma.cc/EK98-QQKM>] (“A new analysis of data from the [CDC’s] Health Interview Survey shows that serious psychological distress . . . is on the rise just as resources for mental health treatment are declining. Researchers from NYU’s Langone Medical Center analyzed almost a decade’s worth of data and found that . . . 3.4 percent of the adult population . . . suffers from a serious mental health issue. The latest data is a departure from previous reports on the CDC’s survey, which estimated that fewer than 3 percent of American adults experienced serious psychological distress.”). Findings have also indicated that the lack of mental health treatment available is a growing problem. *Id.*

26. *Suicide Attempts on the Rise in US, Finds Study*, COLUM. U. IRVING MED. CTR. (Sept. 13, 2017), <https://www.columbiapsychiatry.org/news/suicide-attempts-rise-us-finds-study> [<https://perma.cc/EN8S-UESG>] (“New data confirm that suicide attempts among U.S. adults are on the rise . . . .”); *see also* Sabrina Tavernise, *U.S. Suicide Rate Surges to a 30-Year High*, N.Y. TIMES (Apr. 22, 2016), <https://www.nytimes.com/2016/04/22/health/us-suicide-rate-surges-to-a-30-year-high.html> [<https://perma.cc/GMU9-HUAD>].

27. Tavernise, *supra* note 26.

28. Benedict Carey, *How Suicide Quietly Morphed into a Public Health Crisis*, N.Y. TIMES (June 8, 2018), <https://www.nytimes.com/2018/06/08/health/suicide-spade-bordain-cdc.html> [<https://perma.cc/VAJ9-KLXM>].

29. *Id.*

30. Brian K. Ahmedani, *Mental Health Stigma: Society, Individuals, and the*

more hidden than physical ailments,<sup>31</sup> many people affected by mental illness still suffer in silence.<sup>32</sup>

News accounts and research reveal that many lawyers suffer from behavioral and mental disorders. Nearly twenty years ago, one author described attorneys as being “among the most depressed people in America,”<sup>33</sup> and reports reflect that the profession suffers from high rates of alcoholism,<sup>34</sup> drug abuse,<sup>35</sup> mood disorders,<sup>36</sup> and suicide.<sup>37</sup> Some studies have indicated that lawyers are much more likely than the general population to experience chemical dependency.<sup>38</sup> In 2016, the ABA Commission on

*Profession*, 8 J. SOC. WORK VALUES & ETHICS 4-1, 4-1 to -2, -5 (2011).

31. *Id.*; see also Brooke, *Physical Health vs. Mental Health: Thinking Beyond Definitive*, KELTY MENTAL HEALTH RESOURCE CTR. (Aug. 29, 2018), <https://keltymentalhealth.ca/blog/2013/08/physical-health-vs-mental-health-thinking-beyond-definitive> [https://perma.cc/P5D7-TSFX] (asserting that physical health continues to overshadow mental health, and that illnesses involving the mind continue to be stigmatized more than illnesses that can be detected by medical tests and scans).

32. Tianna Grosch, *Ending the Stigma of Mental Illness One Voice at a Time*, NAMI BUCKS COUNTY (Mar. 27, 2018), <https://namibuckspa.org/ending-the-stigma-of-mental-illness-one-voice-at-a-time/> [https://perma.cc/CE7G-CYWE] (noting that “[m]ental illnesses are invisible and many people suffer in silence” because of the stigma associated with them); see also Liz Szabo, *Cost of Not Caring: Stigma Set in Stone*, USA TODAY (June 25, 2014, 11:32 AM ET), <https://www.usatoday.com/story/news/nation/2014/06/25/stigma-of-mental-illness/9875351/> [https://perma.cc/X3J6-NQMM] (mentioning that the United States fails to provide the most basic services for people with mental illness, but it would never tolerate that failure for cancer or other physical disorders).

33. See Patrick J. Schiltz, *On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession*, 52 VAND. L. REV. 871, 874 (1999).

34. Alexia Elejalde-Ruiz, *High Rates of Alcohol Abuse, Depression Among U.S. Attorneys, Study Says*, CHI. TRIB. (Feb. 3, 2016, 4:51 PM), <https://www.chicagotribune.com/business/ct-lawyers-problem-drinkers-0204-biz-20160203-story.html> [https://perma.cc/5P99-MHTR] (referencing a study that “found 28 percent of attorneys struggle with some level of depression”).

35. See, e.g., Sacha Pfeiffer, *Law and a Disorder—as Profession Changes, Support Group Sees More Attorneys Seeking Mental Health Help*, BOS. GLOBE (June 27, 2007), [https://archive.boston.com/business/articles/2007/06/27/law\\_and\\_a\\_disorder/](https://archive.boston.com/business/articles/2007/06/27/law_and_a_disorder/) [https://perma.cc/2YSZ-8J49] (stating that when it started nearly thirty years ago, “Boston-based Lawyers Concerned for Lawyers functioned as a support group for attorneys with drinking problems,” and “today, attorneys and other legal professionals contact LCL mainly for . . . depression”).

36. Elejalde-Ruiz, *supra* note 34.

37. Nicole Black, *Legal Loop: What Can Be Done About Lawyer Depression*, DAILY REC. (May 18, 2014), <https://nydailyrecord.com/2014/05/18/legal-loop-what-can-be-done-about-lawyer-depression/> [https://perma.cc/26UL-HCWS] (commenting on the new stressors that lawyers have been facing, such as the dwindling job market and citing the CDC, which stated that lawyers are in the top five professions for suicide and “lawyers are 3.6 times more likely to suffer from depression than the general population”). In addition, the author states that the legal profession is in a crisis and that it needs to be revamped to prevent suicide. *Id.*

38. Brooke Adams, *When Lawyers Need Help*, SALT LAKE TRIB. (July 16, 2010), <https://archive.sltrib.com/article.php?id=10196943&itype=storyID> [https://perma.cc/YJ7J-



Lawyer Assistance Programs, studying nearly 13,000 practicing lawyers, found that “between 21 and 36 percent” were problem drinkers.<sup>39</sup> A large percentage of the group struggled with depression (28%), anxiety (19%), and stress (23%).<sup>40</sup> The report also categorized lawyer difficulties, which included social alienation, sleep deprivation, suicide, work-life conflict, and other difficulties.<sup>41</sup>

Although lawyers are likely to identify work-related stress as a major challenge,<sup>42</sup> many of these behavioral and mental health problems also exist among law students.<sup>43</sup> In one study, “[m]ore than a quarter of the law students studied had received at least one diagnosis of ‘depression, anxiety, eating disorders, psychosis, personality disorder, and/or substance use disorder.’”<sup>44</sup> In 2016, the Survey of Law Student Well-Being found that among law students studied, 17% had some level of depression, 23% reported mild or moderate anxiety, and 6% experienced suicidal ideation.<sup>45</sup> Forty-three percent of law students “reported binge drinking at least once in the prior two weeks,” and about 25% were found to be at-risk for alcoholism.<sup>46</sup>

---

JMVU] (stating that attorneys are often good at hiding their problems and noting that “lawyers are 50 percent more likely than the general population to be dependent on or abuse drugs or alcohol” and focusing on statistics about disciplinary cases involving impairment issues in Utah and Illinois).

39. See NAT’L TASK FORCE ON LAWYER WELL-BEING, *supra* note 9, at 7.

40. *Id.*

41. *Id.*

42. See, e.g., Michael J. Higer, *Opinion: Destigmatize Mental Illness in the Legal Profession*, TALLAHASSEE DEMOCRAT (Dec. 4, 2017, 1:37 PM ET), <https://www.tallahassee.com/story/opinion/2017/12/04/opinion-destigmatize-mental-illness-legal-profession/912238001/> [<https://perma.cc/LP8Q-Q3FJ>]. Michael Higer, President of the Florida Bar, wrote an opinion piece on mental health in the legal profession. *Id.* He noted that a Florida “Bar membership survey found that 33 percent of Florida lawyers saw high stress as a significant challenge” and that the Florida Bar’s Board of Governors voted to create the Special Committee on Mental Health and Wellness of Florida Lawyers. *Id.* (“The committee . . . includes a mental health professional, a judge, and a member of the Young Lawyer’s Division.”).

43. Natalie Kitroeff, *Study Finds Future Lawyers Hiding Depression, Drug and Alcohol Use*, BOS. GLOBE (Jan. 9, 2016), <https://www.bostonglobe.com/business/2016/01/08/study-finds-future-lawyers-are-hiding-depression-and-drug-and-alcohol-use/wLQ2RNvW5FyaoTDLmUMVVK/story.html> [<https://perma.cc/V3FB-N2M6>].

44. *Id.* (quoting Natalie Kitroeff, *Study: Future Lawyers Are Hiding Depression and Drug and Alcohol Use*, BLOOMBERG (Jan. 8, 2016, 12:02 PM EST), <https://www.bloomberg.com/news/articles/2016-01-08/study-future-lawyers-are-hiding-depression-and-drug-and-alcohol-use> [<https://perma.cc/CYE4-JG3U>]).

45. See NAT’L TASK FORCE ON LAWYER WELL-BEING, *supra* note 9, at 7.

46. *Id.*

Lawyer stress—including the stress of searching for a job and of paying off college and graduate school debt<sup>47</sup>—has been largely blamed for the increase in alcohol abuse.<sup>48</sup> Alcohol and depression are common, with one study indicating that more than one-fifth of licensed, employed lawyers drink at levels considered “problem drinking.”<sup>49</sup> Many law students do not seek help for fear of stigma,<sup>50</sup> an issue that researchers say results from a historical lack of knowledge about mental health conditions.<sup>51</sup> Stigma is considered a global problem,<sup>52</sup> likely dating back to the practice of secluding individuals with mental health conditions in asylums.<sup>53</sup> Stigma surrounding mental illness exists among individuals of all age groups, including children, adolescents, and adults.<sup>54</sup> Of

---

47. Elizabeth Olson, *High Rate of Problem Drinking Reported Among Lawyers*, N.Y. TIMES (Feb. 4, 2016), <https://www.nytimes.com/2016/02/05/business/dealbook/high-rate-of-problem-drinking-reported-among-lawyers.html> [https://perma.cc/3SVD-WVC9] (discussing a study showing that “[l]awyers working in law firms had the highest rates of alcohol abuse” and “[j]unior associates reported the highest rate of problem drinking,” while “[s]enior associates and junior partners followed”). Another finding noted that “lawyers with 10 or fewer years of experience had much higher rates of alcohol abuse than their more senior colleagues.” *Id.* Furthermore, “[t]he report does not trace the origins of the problem,” but notes the many stressors of young lawyers, including paying debt and job searching. *Id.*

48. *Id.*

49. Elejalde-Ruiz, *supra* note 34. The director of the Legal Professionals Program at the Hazelden Betty Ford Foundation, Patrick Krill, believes that “[t]here needs to be a systemic response” to this mainstream problem. *Id.* (saying he has not “seen a professional population out there with a higher level of problem drinking”). The article also notes elevated levels of depression among lawyers. *Id.*

50. Sherry Karabin, *Shedding the Stigma of Mental Illness*, ABA FOR L. STUDENTS (Apr. 1, 2015), <https://abaforlawstudents.com/2015/04/01/shedding-stigma-mental-illness/> [https://perma.cc/C6XR-WU6N] (stating there is a negative perception that people who seek help for mental illness cannot make it on their own, and that law students may be deterred from seeking help for fear of not being admitted to the bar). Some applicants to law school are also afraid of being rejected if they disclose their struggles with mental illness. *See* ABA LAW STUDENT DIV. ET AL., *SUBSTANCE ABUSE & MENTAL HEALTH TOOLKIT FOR LAW STUDENTS AND THOSE WHO CARE ABOUT THEM* 14–15 (2015), [https://www.americanbar.org/content/dam/aba/administrative/lawyer\\_assistance/ls\\_colap\\_mental\\_health\\_toolkit\\_new.pdf](https://www.americanbar.org/content/dam/aba/administrative/lawyer_assistance/ls_colap_mental_health_toolkit_new.pdf) [https://perma.cc/XG3T-VLMR].

51. Margaret E. Hampson et al., *Changing Hearts and Minds: The Importance of Formal Education in Reducing Stigma Associated with Mental Health Conditions*, 77 HEALTH EDUC. J. 198, 198–200 (2017).

52. Neil Seaman et al., *World Survey of Mental Illness Stigma*, 190 J. AFFECTIVE DISORDERS 115, 117–18 (2016) (stating that through surveying respondents from 229 countries, authors found that stigma surrounding mental illness is a global issue and that the perception of mental illness varies across cultures).

53. Hampson et al., *supra* note 51, at 200 (stating that the stigma of mental illness may have originated from the seclusion of individuals with mental health conditions in asylums from the 1700s into the mid-1900s, resulting in a general lack of knowledge about mental health conditions).

54. Anya Kaushik et al., *The Stigma of Mental Illness in Children and Adolescents: A Systematic Review*, 243 PSYCHIATRY RES. 469, 490 (2016).

particular concern is that stigma often increases the stress of the individual suffering from the mental illness and threatens recovery from the mental health condition.<sup>55</sup>

In addition to the impact of ongoing work-related stress, lawyers are also susceptible to the health impact of traumatic events in the course of their practice. The effect of “shocking and dangerous” events is frequently discussed in the context of PTSD.<sup>56</sup> The term originates from research conducted with active military personnel.<sup>57</sup> Before 1980, symptoms of PTSD—upsetting memories, flashbacks, jumpiness, and sleep disturbances<sup>58</sup>—were frequently seen as weakness in individual soldiers and referred to as “war neurosis” or “shell shock.”<sup>59</sup> During World War I, the British army reported that over 80,000 troops suffered from “shell shock”<sup>60</sup> throughout the hospitals treating the army. After World War II, the United States government recognized that shell shock was the result of trauma and had affected a large number of soldiers returning from the war.<sup>61</sup> In 1980, the American Psychiatric Association recognized PTSD and incorporated it into the third edition of the Diagnostic and Statistical Manual of Mental Disorders.<sup>62</sup> It is

---

55. Marie Ilic et al., *Belittled, Avoided, Ignored, Denied: Assessing Forms and Consequences of Stigma Experiences of People with Mental Illness*, 35 BASIC & APPLIED SOC. PSYCHOL. 31, 31–32 (2013) (describing the consequences of mental health stigma, including increased stress and a threat to recovery).

56. *How Common Is PTSD in Adults?*, U.S. DEP'T VETERANS AFF., [https://www.ptsd.va.gov/understand/common/common\\_adults.asp](https://www.ptsd.va.gov/understand/common/common_adults.asp) [<https://perma.cc/5MKG-MGUE>] (last visited Apr. 1, 2019) (stating that PTSD can take root after living through or witnessing a traumatic event). A traumatic event is shocking and dangerous, leading those experiencing it to believe their lives or the lives of others are in danger.

57. See Marc-Antonie Crocq & Louis Crocq, *From Shell Shock and War Neurosis to Post-traumatic Stress Disorder: A History of Psychotraumatology*, 2 DIALOGUES CLINICAL NEUROSCIENCE 47, 47–55 (2000) (outlining the history of psychotraumatology as it relates to soldiers in combat with discussion of World War II and the Vietnam War). Shell shock is discussed with a look back in the past and discussion of the future of PTSD and soldiers. *Id.*

58. *PTSD Basics*, U.S. DEP'T VETERANS AFF., [https://www.ptsd.va.gov/understand/what/ptsd\\_basics.asp](https://www.ptsd.va.gov/understand/what/ptsd_basics.asp) [<https://perma.cc/GV6F-6DTK>] (last visited Apr. 1, 2019).

59. Joe L. Stein, *Examining Post-Traumatic Stress Disorder and the Plight of Vietnam Veterans*, 5 IOWA HIST. REV. 7, 7–8, 11–15 (2015) (describing how PTSD was extremely common in veterans, yet no term or treatment was in place for those soldiers suffering). Vietnam veterans, specifically, are highlighted in this article for their struggles with the definition of PTSD occurring long after their return from war. *Id.*

60. See Joanna Bourke, *Shell Shock During World War One*, BBC (Mar. 10, 2011), [https://www.bbc.co.uk/history/worldwars/wwone/shellshock\\_01.shtml](https://www.bbc.co.uk/history/worldwars/wwone/shellshock_01.shtml) [<https://perma.cc/26KS-TMNZ>]; Crocq & Crocq, *supra* note 57, at 50 (describing shell shock).

61. Berthold P.R. Gersons & Ingria V.E. Carlier, *Post-Traumatic Stress Disorder: The History of a Recent Concept*, 161 BRIT. J. PSYCHIATRY 742, 744 (1992).

62. Matthew J. Freidman, *PTSD History and Overview*, U.S. DEP'T VETERANS AFF., [https://www.ptsd.va.gov/professional/treat/essentials/history\\_ptsd.asp](https://www.ptsd.va.gov/professional/treat/essentials/history_ptsd.asp) [<https://perma.cc/4D>]

characterized by reexperiencing trauma, negative alterations in cognitions or mood, avoidance, alterations in arousal or reactivity with symptoms that persist for more than one month, and symptoms that significantly interfere with functioning.<sup>63</sup>

While lawyers, of course, do not experience wartime combat in practice, they may deal with clients who have been subjected to physical or emotional trauma and who themselves could be suffering from PTSD. Clients may have been subjected to physical harm, dangerous or demeaning harassment, ongoing threats or name-calling, or an entire range of behavior that has made them feel directly threatened.<sup>64</sup> Lawyers who may not witness or experience their clients' trauma may still be impacted by continually hearing about these traumatic experiences and seeing the impact that the trauma has on their clients.<sup>65</sup> Secondary trauma, also called vicarious trauma, has been recognized where people have not directly experienced harm, but have had indirect exposure to trauma in the context of a familial, social, or professional relationship.<sup>66</sup> Researchers have acknowledged the impact of secondary traumatic stress—indirect exposure to trauma<sup>67</sup>—as a result of “empathic engagement with clients’ trauma experiences . . . includ[ing] listening to [clients’] graphic descriptions of horrific events” and accounts of “people’s cruelty to one another.”<sup>68</sup> This phenomenon has been described in the area of family law,<sup>69</sup> where child abuse and domestic

---

M4-D9S9] (last visited Apr. 1, 2019).

63. *PTSD Basics*, *supra* note 58.

64. *See, e.g.*, Lynne Gold-Bikin & Jonathan W. Gould, *Post-Traumatic Stress Disorder and the Practice of Family Law*, 19 J. AM. ACAD. MATRIM. LAW. 17, 17 (2004); Sarah Katz & Deeya Haldar, *The Pedagogy of Trauma-Informed Lawyering*, 22 CLINICAL L. REV. 359, 360, 364–65 (2016) (stating that attorneys may work with clients from traumatic backgrounds who have experienced events such as intimate partner violence, harassment, or threats that resulted in serious injury, death, or significant harm to one’s mental health).

65. *See, e.g.*, M. Lynne Jenkins, *Teaching Law Students: Lessening the Potential Effects of Vicarious Trauma*, 37 MAN. L.J. 383, 384 (2013) (stating that attorneys are not immune to the effects of vicarious trauma due to the nature of trauma present in the cases they work with and stories they hear from clients).

66. Jennifer Brobst, *The Impact of Secondary Traumatic Stress Among Family Attorneys Working with Trauma-Exposed Clients: Implications for Practice and Professional Responsibility*, 10 J. HEALTH & BIOMEDICAL L. 1, 7 (2014); *Secondary Traumatic Stress*, NAT’L CHILD TRAUMATIC STRESS NETWORK, <https://www.nctsn.org/trauma-informed-care/secondary-traumatic-stress> [<https://perma.cc/YZW9-3BTY>] (last visited Apr. 1, 2019).

67. *See* Brobst, *supra* note 66, at 2.

68. Laurie Anne Pearlman & Paula S. Mac Ian, *Vicarious Traumatization: An Empirical Study of the Effects of Trauma Work on Trauma Therapists*, 26 PROF. PSYCHOL. RES. & PRAC. 558, 558 (1995).

69. Brobst, *supra* note 66, at 2; *see also* Fischman, *supra* note 11, at 107–08 (defining secondary trauma and explaining how it affects lawyers, judges, police, and other

violence are common, but it may afflict lawyers in other areas of the law as well. As physician Rachel Naomi Remen has observed: “The expectation that we can be immersed in suffering and loss daily and not be touched by it is as unrealistic as expecting to be able to walk through water without getting wet.”<sup>70</sup>

The researcher who coined the phrase, “compassion fatigue”, describes it as a “more user friendly term” for Secondary Traumatic Stress Disorder, which is nearly identical to PTSD, except that it affects those exposed to the trauma of another (usually a client or a family member).<sup>71</sup> Compassion fatigue’s emotional and physical exhaustion is associated with “the cost of caring” for others who are suffering from emotional pain.<sup>72</sup> It is used to describe the lack of empathy experienced by those in the helping professions over time as vicarious<sup>73</sup> and secondary trauma negatively affect their emotional health, physical health, and relationships.<sup>74</sup> As tracked by the Professional Quality of Life Scale, signs of compassion fatigue include exhaustion, anger, irritability, decreased ability to feel empathy and sympathy, diminished sense of career satisfaction, changes in worldview (i.e., thoughts like “What’s the point?” or “The world is just a dangerous place; it’s never going to change”), heightened anxiety, hypervigilance (never feeling safe anywhere), difficulty separating work life from personal life, and dreading going to work.<sup>75</sup>

---

professionals who work with traumatized clients).

70. CanMEDS Prof1, *Physician Health and Well-Being*, QUEENS U. SCH. MED., <http://www.collaborativecurriculum.ca/en/modules/CanMEDS-professional/canmeds-professional-physicianhealth-01.jsp> [<https://perma.cc/N8UY-URQ7>] (last updated Oct. 3, 2011) (quoting Rachel Naomi Remen and explaining that denial of the impact does not protect the person who witnesses suffering).

71. Charles R. Figley, *Compassion Fatigue: An Introduction*, GIFT FROM WITHIN, <https://www.giftfromwithin.org/html/What-is-Compassion-Fatigue-Dr-Charles-Figley.html> [<https://perma.cc/73XP-MJYL>] (last updated July 16, 2014).

72. Dorien Wentzel & Petra Brysiewicz, *The Consequence of Caring Too Much: Compassion Fatigue and the Trauma Nurse*, 40 J. EMERGENCY NURSING 95, 95 (2014).

73. *Id.*; see also *Vicarious Trauma*, in ENCYCLOPEDIA OF TRAUMA: AN INTERDISCIPLINARY GUIDE 2 (Charles R. Figley ed., 2012), <https://sk.sagepub.com/reference/download/trauma/n271.pdf> [<https://perma.cc/8TZM-LRRQ>] (defining vicarious traumatization as a “negative transformation in the self of a . . . helper that results from empathetic engagement with traumatized clients . . . Its hallmark is disrupted spirituality or meaning and hope,” and explaining that vicarious and secondary traumatic stress are often used interchangeably).

74. See Wentzel & Brysiewicz, *supra* note 72, at 95.

75. See B. HUDNALL STAMM, PROFESSIONAL QUALITY OF LIFE SCALE: COMPASSION SATISFACTION AND FATIGUE VERSION 5 (2009), [https://www.proqol.org/uploads/ProQOL\\_5\\_English\\_Self-Score\\_3-2012.pdf](https://www.proqol.org/uploads/ProQOL_5_English_Self-Score_3-2012.pdf) [<https://perma.cc/WR22-V992>]; Wentzel & Brysiewicz,

Although any lawyer could experience secondary trauma, family law attorneys have been specifically identified as experiencing mental health problems as a result of interacting with clients who have extensive trauma histories.<sup>76</sup> It has been suggested that some lawyers are drawn to the practice of family law by their own histories of trauma and mental health problems.<sup>77</sup> While this background may enhance empathy, the secondary traumatic stress caused by dealing with clients' problems can make such attorneys biased and overzealous in their representation.<sup>78</sup>

Recognizing the impact of secondary trauma, in 2014, the ABA approved the Policy on Trauma-Informed Advocacy for Children and Youth.<sup>79</sup> The policy encourages "court systems, lawyers, law schools, and bar associations to promote awareness of secondary trauma among legal professionals working with traumatized children and youth and to develop positive strategies for addressing secondary trauma among those involved with children and youth in the justice system."<sup>80</sup> Despite the benign intentions of the policy, its value is limited by its inherent disregard for the negative and widespread impact of *primary* trauma experienced by lawyers and judges themselves.

## II. THE DEVASTATING EFFECTS OF CHILDHOOD ADVERSITY REVEALED BY NEUROSCIENCE

A relatively new area of public health study concerns the long-term negative impact of ACEs on adult physical,<sup>81</sup> interpersonal,<sup>82</sup> and mental health.<sup>83</sup> Studies have repeatedly demonstrated that a

---

*supra* note 72, at 95.

76. Brobst, *supra* note 66, at 2.

77. *Id.* at 3.

78. *Id.* at 3–4.

79. See AM. BAR ASS'N, ABA POLICY ON TRAUMA-INFORMED ADVOCACY FOR CHILDREN AND YOUTH (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) [<https://perma.cc/48M7-DPP8>].

80. *Id.*

81. See J.P. Mersky et al., *Impacts of Adverse Childhood Experiences on Health, Mental Health, and Substance Use in Early Adulthood: A Cohort Study of an Urban Minority Sample in the U.S.*, 37 CHILD ABUSE & NEGLECT 917, 917–18 (2013).

82. Ternarian A. Warren, *The Effects of Frequent Exposure to Violence and Trauma on Police Officers* (July 2015) (unpublished doctoral dissertation, Walden University) (on file with Walden University).

83. Melissa T. Merrick et al., *Unpacking the Impact of Adverse Childhood Experiences on Adult Mental Health*, 69 CHILD ABUSE & NEGLECT 10, 10–11 (2017).

significant proportion of the adult population experienced traumatic events in childhood.<sup>84</sup> Common sources of trauma include physical abuse and neglect, sexual abuse, emotional abuse and neglect, witnessing intimate partner violence, substance abuse within the household, parental mental illness, parental separation or divorce, community violence, and having an incarcerated household member.<sup>85</sup> A compelling, remarkably consistent body of research on ACEs has explored and affirmed the relationship between traumatic childhood experiences and adult illness and dysfunction.<sup>86</sup> The research began unintentionally in the 1980s, after a physician in a weight-loss clinic discovered that many of his adult female patients had been victims of childhood sexual abuse.<sup>87</sup> A large-scale investigation of the link between childhood adversity and adult dysfunction and illness was conducted by the CDC and Kaiser Permanente, a California-based healthcare company.<sup>88</sup> Dozens of subsequent studies conducted with diverse groups of adults in a variety of settings have reaffirmed the link between ACEs and long-term, negative health consequences.<sup>89</sup> The impact of ACEs has been linked to problems such as chronic health

---

84. See, e.g., Felitti et al., *supra* note 12, at 245; Merrick et al., *supra* note 83, at 10–11; Emily F. Rothman et al., *Adverse Childhood Experiences Predict Earlier Age of Drinking Onset: Results from a Representative U.S. Sample of Current or Former Drinkers*, 122 PEDIATRICS e298, e300 (2008).

85. *Adverse Childhood Experiences*, SAMHSA, <https://www.samhsa.gov/capt/practicing-effective-prevention/prevention-behavioral-health/adverse-childhood-experiences> [<https://perma.cc/33QX-HZMD>] (last visited Apr. 1, 2019).

86. The very first study involved Dr. Vincent Felitti's work in a weight loss clinic. Amy Linn, *The Weight of Abuse: How an Obesity Clinic Sparked One of the Nation's Most Revolutionary Health Surveys*, NMPOLITICS.NET (Jan. 21, 2018), <https://nmpolitics.net/index/2018/01/the-weight-of-abuse-how-an-obesity-clinic-sparked-one-of-the-nations-most-revolutionary-health-surveys/> [<https://perma.cc/6EZU-EV7H>]. He realized that a large number of his patients had experienced trauma as children. *Id.* Dr. Felitti later conducted a large-scale investigation of the ACEs that adults had suffered as children in what is now known as the Kaiser Permanente Study. Felitti et al., *supra* note 12, at 245.

87. Linn, *supra* note 86.

88. *About the CDC-Kaiser ACE Study*, CDC, <https://www.cdc.gov/violenceprevention/acestudy/about.html> [<https://perma.cc/B4DA-AQ5P>] (last visited Apr. 1, 2019).

89. See, e.g., Corina Benjet et al., *Descriptive Epidemiology of Chronic Childhood Adversity in Mexican Adolescents*, 45 J. ADOLESCENT HEALTH 483, 483–84 (2009); Teresa N. Brockie et al., *The Relationship of Adverse Childhood Experiences to PTSD, Depression, Poly-Drug Use and Suicide Attempt in Reservation-Based Native American Adolescents and Young Adults*, 55 AM. J. COMMUNITY PSYCHOL. 411, 411 (2015); Alison Giovanelli et al., *Adverse Childhood Experiences and Adult Well-Being in a Low-Income, Urban Cohort*, PEDIATRICS, Apr. 2016, at 1, 1; Karen Hughes et al., *Relationships Between Adverse Childhood Experiences and Adult Mental Well-Being: Results from an English National Household Survey*, BMC PUB. HEALTH, Mar. 3, 2016, at 1, 1; Ana Luiza Gonçalves Soares et al., *Adverse Childhood Experiences: Prevalence and Related Factors in Adolescents of a Brazilian Birth Cohort*, 51 CHILD ABUSE & NEGLECT 21, 21–22 (2016).

conditions,<sup>90</sup> mental illness,<sup>91</sup> health risk behaviors,<sup>92</sup> and even premature death.<sup>93</sup> The cognitive consequences of ACEs include alcohol abuse, illicit drug use, intimate partner violence, and attempts at suicide.<sup>94</sup> As one commentator succinctly put it, “[w]hat happens in childhood doesn’t stay in childhood.”<sup>95</sup>

The relationship between ACEs and negative outcomes in adulthood is referred to as a “dose-response” relationship.<sup>96</sup> 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.<sup>97</sup> For example, in the original ACE study 18.3% of those participants who attempted suicide had four or more ACEs.<sup>98</sup> One study found that four or more ACEs are associated with increased odds of one suicide attempt,<sup>99</sup> while another concluded that ACEs in any category increased the risk of attempted suicide by two to five times.<sup>100</sup> ACEs are also associated with a higher risk of alcohol abuse because a history of ACEs increases the risk of heavy drinking, alcoholism, and marrying an alcoholic by two to four times,

---

90. Jack P. Shonkoff et al., *The Lifelong Effects of Early Childhood Adversity and Toxic Stress*, 129 PEDIATRICS e232, e235 (2012) (demonstrating that chronic stress caused by ACEs has been shown to impact health via stress’s effects on the developing brain).

91. ACEs have been shown to impact physical health through their effects on mental health, and those with ACEs have been found to experience more symptoms of depression and anxiety. See Mersky et al., *supra* note 81, at 918.

92. See Shanta R. Dube et al., *Adverse Childhood Experiences and Personal Alcohol Abuse as an Adult*, 27 ADDICTIVE BEHAV. 713, 722 (2002) (finding that ACEs have been identified as predictors of alcohol abuse in adulthood).

93. Merrick et al., *supra* note 83, at 10–16 (explaining that ACEs can affect mental health and contribute to premature death through their impact on mental health).

94. Shanta R. Dube et al., *The Impact of Adverse Childhood Experiences on Health Problems: Evidence from Four Birth Cohorts Dating Back to 1900*, 37 PREVENTATIVE MED. 268, 274 (2003); Christina Mair et al., *Adverse Childhood Experiences and Intimate Partner Violence: Testing Psychosocial Mediation Pathways Among Couples*, 22 ANNALS EPIDEMIOLOGY 832, 832 (2012); Merrick et al., *supra* note 83, at 15.

95. Stephanie Dalfonzo, *Childhood Trauma*, THRIVE GLOBAL (June 29, 2018), <https://thriveglobal.com/stories/childhood-trauma-what-happens-in-childhood-doesn-t-stay-in-childhood/> [<https://perma.cc/SH37-RS39>].

96. See SUBSTANCE ABUSE & MENTAL HEALTH SERVS. ADMIN. CTR. FOR THE APPLICATION OF PREVENTION TECHS., *TRAUMA & ADVERSE CHILDHOOD EXPERIENCES: IMPLICATIONS FOR PREVENTING SUBSTANCE MISUSE 2* (2016), [https://www.samhsa.gov/capt/sites/default/files/capt\\_resource/ace-webinar-summary.pdf](https://www.samhsa.gov/capt/sites/default/files/capt_resource/ace-webinar-summary.pdf) [<https://perma.cc/98WH-ABRP>].

97. See, e.g., Merrick et al., *supra* note 83, at 13–14.

98. Felitti et al., *supra* note 12, at 252 tbl.4.

99. Namkee G. Choi et al., *Adverse Childhood Experiences and Suicide Attempts Among Those with Mental and Substance Use Disorders*, 69 CHILD ABUSE & NEGLECT 252, 255 (2017).

100. Shanta R. Dube et al., *Childhood Abuse, Household Dysfunction, and the Risk of Attempted Suicide Throughout the Life Span: Findings from the Adverse Childhood Experiences Study*, 286 JAMA 3089, 3094 (2001).



compared to adults who experienced no ACEs.<sup>101</sup> In the original ACEs study, many alcoholics reported having four or more ACEs.<sup>102</sup>

With this new information about the impact of ACEs, a new model called a trauma-informed approach<sup>103</sup> is necessary when viewing adults affected by trauma. A trauma-informed approach changes the common question “[w]hat is wrong with you” to a more helpful “[w]hat happened to you?”<sup>104</sup> to help explain why adults might use maladaptive coping mechanisms such as alcohol or substance abuse.<sup>105</sup> Recent advances in neuroscience explain how different types of childhood adversity can influence adult health outcomes.<sup>106</sup> “Brain [a]rchitecture is experience dependent;” its complex circuitry is influenced by human experiences.<sup>107</sup> The home and community environment in which a child is raised affects the young developing human brain.<sup>108</sup> Children who are cared for by nurturing adults in safe environments typically have brains that develop to make connections, maximizing important skills like empathy, impulse control, anger management, and problem-solving skills.<sup>109</sup> When children feel unsafe, their brains develop to help

---

101. Dube et al., *supra* note 92, at 718–23.

102. Felitti et al., *supra* note 12, at 253 tbl.5.

103. See generally Katz & Haldar, *supra* note 64 (describing a trauma-informed perspective).

104. Annie Lemoine, *Good Storytelling: A Trauma-Informed Approach to the Preparation of Domestic Violence-Related Asylum Claims*, 19 LOY. J. PUB. INT. L. 27, 49 (2017) (stating that in working with clients affected by trauma, acknowledging the emotional aspect of working with traumatized clients allows for “good lawyering,” and that this approach involves the perspective of seeing trauma as “[w]hat happened to you?” instead of “[w]hat is wrong with you?” (quoting Katz & Haldar, *supra* note 64, at 363)).

105. See Arielle Ered et al., *Coping as a Mediator of Stress and Psychotic-Like Experiences*, 43 EUR. PSYCHIATRY 9, 9 (2017) (stating that drug and alcohol abuse, self-blame, and denial are all examples of maladaptive coping mechanisms).

106. See Shonkoff et al., *supra* note 90, at e237–38.

107. See ANDREW GARNER, OHIO CHAPTER AM. ACAD. OF PEDIATRICS, PEERING INSIDE THE BLACK BOX: THE BIOLOGY LINKING CHILDHOOD ADVERSITY AND POOR ADULT OUTCOMES (2016), [https://ohioaap.org/wp-content/uploads/2017/05/BlackBox\\_Garner\\_9-23-16.pdf](https://ohioaap.org/wp-content/uploads/2017/05/BlackBox_Garner_9-23-16.pdf) [https://perma.cc/7NFK-THYQ].

108. See Allan N. Schore, *The Effects of Early Relational Trauma on Right Brain Development, Affect Regulation, and Infant Mental Health*, 22 INFANT MENTAL HEALTH J. 201, 208 (2001).

109. See Robert F. Anda et al., *The Enduring Effects of Abuse and Related Adverse Experiences in Childhood*, 256 EUR. ARCHIVES PSYCHIATRY & CLINICAL NEUROSCIENCE 174, 178 (2006).

them respond to threatening situations.<sup>110</sup> These reactions to stressful situations are called the “fight-flight-freeze” responses.<sup>111</sup>

Scientists believe that these brain reactions can prevent children’s brains from developing other, potentially more useful responses and problem-solving skills for troubling situations.<sup>112</sup> When the young developing brain experiences stress, it also triggers a physiologic stress response, where stress hormones including cortisol flood the brain.<sup>113</sup> In large amounts over sustained periods of time, these hormones have a toxic effect on the brain, causing abnormal development in regions like the amygdala and the prefrontal cortex.<sup>114</sup> Scientists have discovered that the parts of the brain negatively affected by this chemical response have specific functions crucial to what is considered humans’ executive management<sup>115</sup>—the part that helps govern impulse control and emotional regulation, including anger management and decision making.<sup>116</sup> These executive tasks governed by the brain have been noted by the ABA to be vital to lawyers’ functioning.<sup>117</sup> The groundbreaking ACE studies show that a significant proportion of the American public has experienced traumatic events,<sup>118</sup> that exposure to multiple traumas in childhood can create serious and

---

110. Kristen L. Thompson et al., *Fight, Flight, and Freeze: Threat Sensitivity and Emotion Dysregulation in Survivors of Chronic Childhood Maltreatment*, 69 *PERSONALITY & INDIVIDUAL DIFFERENCES* 28, 29 (2014) (describing use by researchers of the fight-flight-freeze system to identify its connection with chronic childhood maltreatment).

111. *Id.*

112. See Yolanda Graham et al., *The Effects of Neonatal Stress on Brain Development: Implications for Psychopathology*, 11 *DEV. & PSYCHOPATHOLOGY* 545, 557 (1999); see also Michael D. De Bellis & Abigail Zisk, *The Biological Effects of Childhood Trauma*, 23 *CHILD ADOLESCENT PSYCHIATRIC CLINICS N. AM.* 185, 189 (2014).

113. Christine Heim & Charles B. Nemeroff, *The Role of Childhood Trauma in the Neurobiology of Mood and Anxiety Disorders: Preclinical and Clinical Studies*, 49 *BIOLOGICAL PSYCHIATRY* 1023, 1030 (2001).

114. See Shonkoff et al., *supra* note 90, at e235–36.

115. See Anda et al., *supra* note 109, at 180–81 (stating that child maltreatment causes changes in the child’s brain structure).

116. Traci Pedersen, *Chronic Childhood Stress Leaves Lasting Impact on Brain*, *PSYCHCENTRAL* (Aug. 8, 2018), <https://psychcentral.com/news/2014/06/29/chronic-childhood-stress-leaves-lasting-impact-on-brain/71836.html> [<https://perma.cc/565B-MM77>] (discussing the effects of chronic childhood stress on brain functions); see also Bruce S. McEwan, *Effects of Stress on the Developing Brain*, 14 *CEREBRUM* 1, 2 (2011) (reviewing the effects of stress on the developing brain).

117. The ABA report acknowledges that well-functioning executive capacities are needed for good decision making, planning, and coping. See *NAT’L TASK FORCE ON LAWYER WELL-BEING*, *supra* note 9, at 9, 47.

118. Joshua P. Mersky & Colleen E. Janczewski, *Racial and Ethnic Differences in the Prevalence of Adverse Childhood Experiences: Findings from a Low-Income Sample of U.S. Women*, 76 *CHILD ABUSE & NEGLECT* 480, 480 (2018).

sensitive physical and emotional wounds, and that ACEs are considered a major underreported source of adult health problems.<sup>119</sup>

However, recovery and resilience are possible too. Neuroplasticity, the brain's ability to heal from trauma,<sup>120</sup> has emerged as an important area of scientific study.<sup>121</sup> Scientists believe that the brain is adaptable; even learning about how our childhoods have affected us can be empowering.<sup>122</sup> The same experiences that make us feel "safe, cared for, relaxed and loved" help heal the brain.<sup>123</sup> In short, "just as the brain can be harmed by negative experience[s], so too [can] it be healed through positive experience[s]."<sup>124</sup> Among these are specifically planned activities, including meditation and mindfulness.<sup>125</sup> Repetitive activities such as walking, running, dancing, and singing all have positive impacts on the brain. These activities help move the brain from "super-high anxiety states" to calmer cognitive states, both in children<sup>126</sup> and in adults.<sup>127</sup>

---

119. Maxia Dong et al., *Insights into Causal Pathways for Ischemic Heart Disease Adverse Childhood Experiences Study*, 110 CIRCULATION 1761, 1766 (2004).

120. See Richard Davidson & Bruce S. McEwan, *Social Influences on Neuroplasticity: Stress and Interventions to Promote Well-Being*, 15 NATURE NEUROSCIENCE 689, 691 (2012) (noting that interventions can help the brain to heal); David Hosier, *3 Ways to Repair Brain Damage Caused by Protracted Childhood Trauma*, CHILDHOOD TRAUMA RECOVERY (Mar. 24, 2016, 9:03 AM), <https://childhoodtraumarecovery.com/tag/neuroplasticity-articles/> [<https://perma.cc/QTb7-PAZH>].

121. Courtney Ackerman, *What Is Neuroplasticity? Definition and 14 Brain Plasticity Exercises*, POSITIVE PSYCHOL. PROGRAM (July 25, 2018), <https://positivepsychologyprogram.com/neuroplasticity/> [<https://perma.cc/2465-C5QR>].

122. Davidson & McEwan, *supra* note 120, at 690–92; Hosier, *supra* note 120.

123. Hosier, *supra* note 120.

124. *Id.*

125. *Id.*

126. *Id.*; see also Rebekka Dieterich-Hartwell, *Dance/Movement Therapy in the Treatment of Post-Traumatic Stress: A Reference Model*, 54 ARTS PSYCHOTHERAPY 38 (2017) (discussing how music therapy and other arts-based therapies are outlets for emotions associated with trauma). For example, drama therapy has a positive connection for trauma survivors, art therapy supports trauma survivors when coupled with mindfulness, and body movements in Dance/Movement Therapy reflect emotional states. *Id.*; Kirsten Hötting & Brigitte Röder, *Beneficial Effects of Physical Exercise on Neuroplasticity and Cognition*, 37 NEUROSCIENCE & BIOBEHAVIORAL REVIEWS 2243, 2243–44 (2013) (focusing on how physical exercise increases neuroplasticity, which in turn improves one's ability to respond to changing environments and new demands); Ewa A. Miendlarzewska & Wiebke J. Trost, *How Musical Training Affects Cognitive Development: Rhythm, Reward, and Other Modulating Variables*, 7 FRONTIERS NEUROSCIENCE 1, 4–5 (2014) (highlighting healthy children's and adults' responses to music training with neuroimaging techniques, finding that the amount of music training time young children receive directly correlates to later plasticity, and finding that children who start music training at a young age have better listening and speech skills); Janet O'Shea, *It Matters How You Move: An Ethnographic Memoir on Collaboration Between Dance Studies and Neuroscience*, 49 DANCE RES. J. 6, 7–8 (2017) (focusing on Filipino martial arts and its connection to neuroplasticity).

127. See Natale R. Sciolino et al., *Galanin Mediates Features of Neural and Behavioral*

Scientists have emphasized the role of sleep, nutritious food, and exercise<sup>128</sup>—as well as pharmacological interventions when necessary<sup>129</sup>—in helping to correct brain chemical imbalances and promote healing.<sup>130</sup>

### III. ATTEMPTS TO IMPROVE LAWYER WELLNESS

Concern about attorney mental health is not new. For nearly two decades, researchers, commentators, and leaders in the legal community have found the roots of responsibility for attorneys' struggles in law school culture, the struggle to balance work and personal life,<sup>131</sup> and emerging mental illness.<sup>132</sup> Law schools have been criticized as being too competitive and socially isolating.<sup>133</sup> What is often left unsaid on campus is also important: when schools ignore

---

*Stress Resilience Afforded by Exercise*, 89 NEUROPHARMACOLOGY 255, 255–56, 262 (2014) (discussing how exercise promotes behavioral resilience and increases the level of galanin—which is related to stress resilience in behavioral tests of anxiety—that is present in the central nervous system).

128. See, e.g., Adrian L. Lopresti et al., *A Review of Lifestyle Factors That Contribute to Important Pathways Associated with Major Depression: Diet, Sleep and Exercise*, 148 J. AFFECTIVE DISORDERS 12, 15, 17–18 (2013) (stating that diet, sleep, and exercise affect individuals with major depression, both mentally and physically; finding that lifestyle factors such as diet, sleep, and exercise all positively affect the chemical balance of the brain).

129. See, e.g., Vladimir Maletic et al., *Neurobiology of Depression: An Integrated View of Key Findings*, 61 INT'L J. CLINICAL PRAC. 2030, 2030, 2036 (2007) (discussing the connection of major depressive disorder and the chemical balance of the brain; observing that pharmacological interventions have improved chemical imbalances in the brain). The National Institute of Mental Health describes treatment options for anxiety. *Anxiety Disorders*, NAT'L INST. MENTAL HEALTH, <https://www.nimh.nih.gov/health/topics/anxiety-disorders/index.shtml> [<https://perma.cc/DHE4-WAEC>] (last visited Apr. 1, 2019).

130. See, e.g., G. MacQueen & T. Frodl, *The Hippocampus in Major Depression: Evidence for the Convergence of the Bench and Bedside in Psychiatric Research?*, 16 MOLECULAR PSYCHIATRY 252, 253, 259 (2011) (describing the evidence that major depressive disorder creates not only chemical imbalances, but also changes in the hippocampal volume; noting that physical exercise improves neurogenesis).

131. Siw Tone Innstrand et al., *Positive and Negative Work-Family Interaction and Burnout: A Longitudinal Study of Reciprocal Relations*, 22 WORK & STRESS 1, 2, 12 (2008) (concluding that conflict between work and family may have definite effects on the individual and his or her workplace due to feeling burnt out; concluding that a work and family life balance may be a positive approach to preventing burnout).

132. See Jennifer Jolly-Ryan, *The Last Taboo: Breaking Law Students with Mental Illnesses and Disabilities Out of the Stigma Straightjacket*, 79 UMKC L. REV. 123, 125–26 (2010) (recognizing that stress reactions to the intense experience of law school could be the product of normal stress or rooted in a deeper mental illness).

133. See, e.g., Jennifer Jolly-Ryan, *Promoting Mental Health in Law School: What Law Schools Can Do for Students to Help Them Become Happy, Mentally Healthy Lawyers*, 48 U. LOUISVILLE L. REV. 95, 103, 105 (2009) (stating that entering law students possess “normal psychological markers,” but “shift quickly to major psychological distress during the first year of law school” and blaming the culture of the traditional law school as a major reason for that shift).

the impact of stress and fail to pay attention to mental health, this “hidden curriculum”<sup>134</sup> of the law school environment also shapes—or misshapes—the values of the students.<sup>135</sup> Commentators have suggested that the solution can be found in good counseling, mentors, and support to help maintain a “healthy balance” in students’ lives to combat stress.<sup>136</sup>

Altruism, the economy, personal values, and individual disposition have also been suggested as causes for attorney dissatisfaction and mental health issues.<sup>137</sup> One commentator posits that more millennials, because of their desire to enter the “helping” professions, will work in the public interest sector and be beleaguered with the “overwhelming issues disrupting private and professional well-being” that public interest lawyers have experienced “for generations.”<sup>138</sup> Downturns in the economy that result in fewer opportunities for law graduates have also been identified as a cause of problems for lawyers’ mental health.<sup>139</sup> Some studies suggest that the more law students are focused on elements of external recognition in law school—e.g., grades and class rank—instead of intrinsic rewards like satisfaction with learning, the more likely they are to have trouble with their emotional wellness.<sup>140</sup> Other theories link lawyers’ mental health problems to preexisting attributes and attitudes toward the practice of law formed well before they entered law school or law practice; dissatisfied attorneys, for example, may be moodier and more socially isolated as children.<sup>141</sup> Psychologist Alfred Adler believed that people’s career choices were often a

---

134. Otey, *supra* note 16, at 186.

135. *Id.* at 186–87.

136. Jolly-Ryan, *supra* note 133, at 95–96; *see also* Otey, *supra* note 16, at 151.

137. Susan Daicoff, *Lawyer, Know Thyself: A Review of Empirical Research on Attorney Attributes Bearing on Professionalism*, 46 AM. U. L. REV. 1337, 1353 (1997) (citing a theory by Shneidman, which points to poor coping skills in some individuals as a reason for attorney dissatisfaction).

138. Otey, *supra* note 16, at 157.

139. *Id.* at 164. It should be noted, however, that economic cycles have fluctuated since the founding of the nation. For example, there have been thirty-three recessions in the United States from 1854 to 2009. *U.S. Business Cycle Expansions and Contractions*, NAT’L BUREAU ECON. RES. (Apr. 23, 2012), <https://nber.org/cycles/cyclesmain.html> [<https://perma.cc/ZB7D-JKWK>].

140. *See, e.g.*, Susan Daicoff, *Expanding the Lawyer’s Toolkit of Skills and Competencies: Synthesizing Leadership, Professionalism, Emotional Intelligence, Conflict Resolution, and Comprehensive Law*, 52 SANTA CLARA L. REV. 795, 808–09 (2012) (“[T]o be optimally effective and avoid psychological distress, some scholars and researchers called for attorneys to: (1) identify and follow their own intrinsic values; and (2) develop their interpersonal skills and competencies.”).

141. Daicoff, *supra* note 137, at 1353.

result of their childhood experiences and memories, and theorized that a person's career choice was a result of wanting to overcome early emotional discomfort that resulted from these experiences.<sup>142</sup> Legal commentators have suggested that a similar dynamic may occur in law schools that house legal clinics for underserved populations: students may desire to work with clients who have suffered trauma similar to their own.<sup>143</sup> The solution to this dynamic is apparently for law schools to create a "space for students to talk about and/or reflect on their own trauma experience[s]" as they work with clients.<sup>144</sup> However, while placing a helpful spotlight on this issue, the article does not suggest how administrators can facilitate that reflection or conversation, or how they should provide insight into the framework that would make such self-discovery possible.

Much of the literature on lawyering and mental health focuses on the *client's* traumatic experiences. The term "trauma-informed" legal practice refers to preparing law students to recognize the vicarious trauma that can occur when lawyers interact with clients who have experienced traumatic events.<sup>145</sup> Much of the advice has been to learn how to recognize when a client is likely suffering from trauma and how to assist those clients with obtaining therapeutic intervention and learning self-care techniques, including the use of lawyer assistance programs.<sup>146</sup> The Path to Lawyer Well-Being

---

142. *Id.* at 1350.

143. Katz & Haldar, *supra* note 64, at 392.

144. *Id.* at 393.

145. *See, e.g.*, CHILDREN'S JUSTICE INITIATIVE, ZEALOUS ADVOCACY IN CHIPS CASES: WHAT PARENTS' ATTORNEYS NEED TO KNOW TO EFFECTIVELY ADVOCATE FOR THEIR CLIENTS (2016), [http://www.mncourts.gov/mncourtsgov/media/scao\\_library/ENE/Agenda-CHIPS-Parent-Attorney-Conference-\(CLE-Credits-Approved\).pdf](http://www.mncourts.gov/mncourtsgov/media/scao_library/ENE/Agenda-CHIPS-Parent-Attorney-Conference-(CLE-Credits-Approved).pdf) [<https://perma.cc/8CAR-459T>] (describing a Minnesota one-credit CLE on ACEs and how to deliver services to children and parents who have experienced trauma); INST. ON VIOLENCE, ABUSE & TRAUMA, 14TH HAWAII INTERNATIONAL SUMMIT: PREVENTING, ASSESSING & TREATING TRAUMA ACROSS THE LIFESPAN 1, 9 (2017), <https://static1.squarespace.com/static/57e20b7703596e2bdd49195c/t/58d94d961b10e366b4373fb3/1490636197732/Hawaii+Program+-+FINAL+3.16.17.pdf> [<https://perma.cc/Y3B2-8NWJ>] (showing a California-approved CLE focusing on victims' traumatic experiences); LISA PARSONS, CHI. VOLUNTEER LEGAL SERVS., TRAUMA INFORMED AND MOTIVATIONAL INTERVIEWING (2015), <https://www.cvls.org/seminar/gal-minors-trauma-informed-and-motivational-interviewing> [<https://perma.cc/A7BL-CNK9>] (showing a handout for Illinois CLE concentrating on ways for attorneys to interview and understand clients' ACEs but not their own); *see also* Lawyer Assistance Program, DCBAR, <https://www.dcbbar.org/bar-resources/lawyer-assistance-program/> [<https://perma.cc/29UL-4BUH>] (last visited Apr. 1, 2019) (describing a lawyer assistance program that offers self-tests and information about depression, mental health, and a variety of issues, but not mentioning ACEs).

146. NAT'L TASK FORCE ON LAWYER WELL-BEING, *supra* note 9, at 11. This recommendation is an attempt to boost public confidence in the legal system. *Id.* at 1.

Report (“Report”), published by the National Task Force on Lawyer Well-Being, identified various problems that attorneys themselves may be experiencing and proposed corresponding solutions. The Report includes recommendations for stakeholders, regulators, legal employers, law schools, bar associations, lawyer assistance programs, and lawyer professional liability carriers, with the goal of improving lawyers’ and judges’ wellness and boosting the public’s confidence in the legal system.<sup>147</sup>

The Report calls for changes in the ABA Model Rules of Professional Conduct<sup>148</sup> and Professional Education,<sup>149</sup> standardized exams,<sup>150</sup> and accreditation standards for law schools.<sup>151</sup> In addition, the Report seeks to alter the legal community’s culture to destigmatize and encourage help seeking for mental illness and substance abuse disorders that “fester”<sup>152</sup> among members of the legal profession.<sup>153</sup> Moreover, the Report encourages the development of high-quality educational programs about lawyers and stress. Such programs would include guidance on the warning signs of substance abuse, self-assessments, mental health disorders, means of seeking help, ways to approach a colleague who may be suffering from a disorder, and strategies for thriving in practice and managing stress.<sup>154</sup>

While the Report recommends that lawyers who have substance abuse and mental health problems obtain treatment and

---

147. *Id.* at 11.

148. *Id.* at 12, 26 (stating that “[f]or too long, the legal profession has turned a blind eye to widespread health problems” and recommending modifying the Rules of Professional Conduct to reference lawyer well-being and expanding educational outreach on well-being issues).

149. *Id.* at 26 (recommending redefining competence in the ABA Model Rule of Professional Conduct 1.1 to include lawyers’ well-being; proposing a new Model Rule for continuing legal education that recommends mandatory mental health programming in continuing education). The Model Rule would require lawyers to earn at least one credit hour every three years on training that addresses prevention, detection, and/or treatment of mental health or mental illness disorders. *Id.* The Task Force recommends that all states’ models adopt this model provision. *Id.* (demonstrating that some state bars, including California and Illinois, already have such requirements).

150. *Id.* at 30 (stating that the Task Force recommends amending the Multistate Professional Responsibility Exam to include questions on mental health and substance use disorders and the confidentiality of using lawyer assistance programs). Adding this requirement would compel instructors of MPRE prep courses to teach this information.

151. *Id.* at 27 (recommending requiring law schools to mandate well-being education in order to maintain ABA accreditation).

152. *Id.* at 13, 25 (discussing the abuse disorders that “fester” among lawyers).

153. *Id.* at 12.

154. *Id.* at 17.

counseling, it does not mention the call by the CDC to educate people about the long-term negative impact of ACEs. It is unclear how people can satisfy the call for identifying the “root causes of poor health”<sup>155</sup>—including a call for random drug testing<sup>156</sup>—without a clear explanation of ACEs within a trauma-informed framework. Similarly, the Report encourages law schools to recognize the warning signs of students experiencing a mental health crisis, reduce stigma around seeking help, and provide students with resources on mental health and substance abuse, but fails to address childhood trauma.<sup>157</sup> Because many law students are emerging adults, law schools have an important opportunity to provide information about ACEs along with these resources. The Harvard Center on the Developing Child calls adolescence—youth from twelve to twenty-five years of age—“a “vital window of opportunity” for building “executive function” and “core life skills.”<sup>158</sup> This window may be present in many young law students, while older students can also strengthen their brains and learn new self-regulation skills.

The Report includes a list of sample educational topics that could be used for lawyers on stress and well-being. In that section, it mentions an individual’s “capacity for resilience derives from a host of factors, including genetics and childhood experiences.”<sup>159</sup> This brief mention of resilience, however, contains no recommendation to explore such childhood experiences or to spell out the specifics of neurobiology and brain development. Such a superficial passing reference that immediately segues into ways to build

---

155. *Id.* at 18.

156. *See id.* at 19–20 (discussing studies indicating that “96 percent of medical professionals who were subject to random drug tests remained drug-free, compared to only 64 percent of those who were not subject to mandatory testing,” and suggesting that drug testing might help the legal profession). *But see id.* at 29 (“Discipline does not make an ill lawyer well.”).

157. *See id.* at 36–39. Law students often express a willingness to seek help from a health professional, but few actually do. *Id.* at 37. Even though a quarter of students in one study were at risk for problematic drinking, only 4% had received counseling for alcohol or drug issues. *Id.* at 35; *see also* Lawrence S. Krieger, *Institutional Denial About the Dark Side of Law School, and Fresh Empirical Guidance for Constructively Breaking the Silence*, 52 J. LEGAL EDUC. 112, 112, 126 (2002) (discussing the apparent unhappiness among law students and lawyers, and stressing the need to address and amend current practices).

158. CTR. ON THE DEVELOPING CHILD, HARVARD UNIV., BUILDING THE CORE SKILLS YOUTH NEED FOR LIFE: A GUIDE FOR EDUCATION AND SOCIAL SERVICE PRACTITIONERS 1 (2018), [https://46y5eh11fhgw3ve3ytpwxt9r-wpengine.netdna-ssl.com/wp-content/uploads/2018/02/HCDC\\_BuildingAdolescentCoreLifeSkills.pdf](https://46y5eh11fhgw3ve3ytpwxt9r-wpengine.netdna-ssl.com/wp-content/uploads/2018/02/HCDC_BuildingAdolescentCoreLifeSkills.pdf) [<https://perma.cc/2WNZ-PL8R>].

159. NAT’L TASK FORCE ON LAWYER WELL-BEING, *supra* note 9, at 52.



resilience<sup>160</sup> omits crucial information about what exactly lawyers are healing from and how they can break the cycle of ACEs in their own families.

Although two law schools have helpfully incorporated trauma issues into school legal clinics that focus on ACEs, these enterprises do not include a focus on students' mental well-being. Harvard offers the Education Law Clinic/Trauma & Learning Policy Initiative, which educates students on trauma sensitivity in order to help them advocate for underperforming schoolchildren who have experienced family violence and other ACEs.<sup>161</sup> The new University of Memphis—Institute for Health Law and Policy Lab: ACE Initiative has partnered with the ACE Awareness Foundation to engage law students in developing policies to address adversity in early childhood.<sup>162</sup> The Lab is the only clinic we found that highlights the need for the public to understand the role of ACEs in long-term health. We could not find any law school effort to deal specifically with students' or lawyers' own ACEs.

#### IV. IMPROVING LAWYERS' RESILIENCE THROUGH NEW EDUCATION ON TRAUMA

As various media outlets and legal groups have emphasized, law students, lawyers, and judges deserve to have an opportunity to learn about and improve their mental health.<sup>163</sup> However, ignoring the real root of the problem<sup>164</sup> decreases the likelihood that wellness efforts will succeed. Researchers have concluded that when

---

160. *See id.* at 51–52.

161. *Education Law Clinic/Trauma & Learning Policy Initiative*, HARV. L. SCH., <https://hls.harvard.edu/dept/clinical/clinics/education-law-clinictrauma-and-learning-policy-initiative/> [<https://perma.cc/9FLT-95L5>] (last visited Apr. 1, 2019).

162. *iHeLP Policy Lab: ACE Initiative*, U. MEM. CECIL C. HUMPHREYS SCH. L., [https://www.memphis.edu/law/about/news/ihelpolicylab\\_launch.php](https://www.memphis.edu/law/about/news/ihelpolicylab_launch.php) [<https://perma.cc/J4D8-4NW3>] (last visited Apr. 1, 2019).

163. *See, e.g.*, ABA LAW STUDENT DIV. ET AL., *supra* note 50, at 3; Jeena Cho, *Can We Finally Talk About the Elephant in the Room?*, ABOVE L. (Feb. 8, 2016, 2:01 PM), <https://abovethelaw.com/2016/02/can-we-finally-talk-about-the-elephant-in-the-room-mental-health-of-lawyers/> [<http://perma.cc/EY4X-SL8S>]; Stephanie Francis Ward, *The Time to Help Lawyers with Mental Health Services Is Now, New Report Says*, ABA J. (Aug. 14, 2017, 12:15 PM CDT), [https://www.abajournal.com/news/article/the\\_time\\_to\\_help\\_lawyers\\_with\\_mental\\_health\\_services\\_is\\_now\\_says\\_colap\\_repo](https://www.abajournal.com/news/article/the_time_to_help_lawyers_with_mental_health_services_is_now_says_colap_repo) [<https://perma.cc/JZE9-FXNF>].

164. Current ABA publications ignore ACEs and instead blame issues such as crushed hopes and dreams for law student struggles. *See* ABA LAW STUDENT DIV. ET AL., *supra* note 50, at 5–6 (identifying the three primary sources of law student struggles as: “1. The Crush of Hopes, Dreams, and Aspirations . . . , 2. Living an Unbalanced Life . . . , and 3. Law School Becomes One’s Identity”).

people realize why they have been struggling, they have a new perspective on their health. For example, studies have suggested that efforts to help people stop smoking—especially those with PTSD—are more effective when trauma histories are part of the therapy.<sup>165</sup> Likewise, researchers have discovered that efforts to help veterans recover from alcohol abuse are more successful when attention to the patients' early adversity is part of the treatment.<sup>166</sup> When childhood adversity lies at the root of so many problems—from intimate partner violence<sup>167</sup> and victimization, to family dysfunction, to chronic physical health problems, and to mental illness—lawyers deserve to have information about the impact that ACEs can have on their physical, mental, and behavioral health, and tools to heal. Scientists tell us that one important buffer to toxic stress is healthy adult relationships.<sup>168</sup> At the same time, however, having ACEs often leads to problems like depression and anxiety, that make it difficult to form and maintain healthy relationships. Thus, ACEs can create a double bind of depriving victims of childhood trauma who are struggling with careers, family life, and financial

---

165. Eric A. Dedert et al., *Pilot Cases of Combined Cognitive Processing Therapy and Smoking Cessation for Smokers with Posttraumatic Stress Disorder*, 47 *BEHAV. THERAPY* 54, 55 (2016) (suggesting that treating trauma symptoms in individuals who have PTSD may help increase the effectiveness of smoking cessation); Mark B. Powers et al., *Efficacy of Smoking Cessation Therapy Alone or Integrated with Prolonged Exposure Therapy for Smokers with PTSD: Study Protocol for a Randomized Controlled Trial*, 50 *CONTEMP. CLINICAL TRIALS* 213, 213–14 (2016) (proposing that for individuals with PTSD it may be promising to include treatments that address trauma while helping them quit smoking because the effects of PTSD have been found to contribute to many individuals' continued smoking habits).

166. See Amanda L. Giordano et al., *Addressing Trauma in Substance Abuse Treatment*, 60 *J. ALCOHOL & DRUG EDUC.* 55, 58 (2016) (stating that the integration of trauma counseling in substance abuse treatments may help increase treatment effectiveness); Linda Trent et al., *Alcohol Abuse Among U.S. Navy Recruits Who Were Maltreated in Childhood*, 42 *ALCOHOL & ALCOHOLISM* 370, 373–74 (2007) (noting that current Department of Defense alcohol reduction programs may not be effective without considering effects of childhood victimization or trauma).

167. Research completed in Asia and the Pacific shows that childhood trauma has gendered differences, but there are still significant impacts on future family and intimate partner functioning. Emma Fulu et al., *Prevalence of and Factors Associated with Male Perpetration of Intimate Partner Violence: Findings from the UN Multi-Country Cross-Sectional Study on Men and Violence in Asia and the Pacific*, 1 *LANCET GLOBAL HEALTH* e187, e204 (2013). For men, all forms of childhood trauma were associated with all forms of intimate partner violence perpetration. *Id.* Women's risk of becoming victims of physical intimate partner violence was associated with their experiences of child maltreatment and witnessing their mothers being abused. *Id.* Researchers found significant pathways between men's and women's perpetration and experiences of childhood trauma, physical intimate partner violence, and harsh parenting styles. *Id.*

168. Sheldon Cohen, *Social Relationships and Health*, 59 *AM. PSYCHOL.* 676, 681 (2004) (noting social support can promote health through stress-buffering).

demands, of the capacity to forge the very relationships that could help them cope with these sources of stress.<sup>169</sup>

Beyond learning how ACEs can affect brain development, lawyers should have opportunities for healing with research-informed practices, creating hope that they can build resilience to be better prepared to deal with future stress. Such an opportunity should include ways for lawyers to consider their trauma histories, perhaps with online training, so that they can process the information privately and make decisions about how to move forward with counseling, treatment, or other means of dealing with the impact of trauma. To be less vulnerable to the effects of job stress and trauma experienced as a result of life stressors, lawyers should have a way to consider their own childhood trauma and build new skills. Having an opportunity to learn about emotional regulation can help construct resilience against stress.<sup>170</sup> Members of the legal profession who learn to process their childhood trauma can reduce their risk of continuing a cycle of individual and family dysfunction, and thereby have the prospect of better lives.

Law students, lawyers, and judges should be taught about the effects of trauma on the developing brain and learn specific skills to cope with pre-employment trauma and job-specific challenges. They should be offered lessons on building physical and mental readiness and wellness through mindfulness and stress reduction techniques, because people at every stage of life have the ability to heal and counter the negative effects of early trauma. Perhaps the most crucial reason that members of the legal profession should learn about trauma is because lawyers may act unprofessionally when they are not healthy and, thus, undermine the legal system.<sup>171</sup> Lawyers' ability to competently provide legal services plays

---

169. Resmiye Oral et al., *Adverse Childhood Experiences and Trauma Informed Care: The Future of Health Care*, 79 PEDIATRIC RES. 227, 227–29 (2016) (stating that individuals that have experienced trauma may have barriers in creating and maintaining healthy and supportive relationships).

170. See Sarah H. Juul et al., *Maternal Early-Life Trauma and Affective Parenting Style: The Mediating Role of HPA-Axis Function*, 19 ARCHIVES WOMEN'S MENTAL HEALTH 17, 17 (2016) (discussing how a history of childhood trauma impacts how individuals function in adulthood and creates impairments in future parenting, which can have negative outcomes for the children of victims).

171. See Hon. George C. Hanks, Jr., *Professionalism and the Law*, 54 HOUS. L. REV. 1271, 1271–73 (2017) (discussing how when attorneys act unprofessionally or lose sight of the impact they have on their clients, they can destroy the trust that is necessary in maintaining a functioning legal system, and that when lawyers are not able to do their jobs due to unhealthy behaviors, they are not upholding their professional duties); *id.* at 1273 (“The

a significant role in individual clients' lives, sometimes in matters of life and death.<sup>172</sup> Beyond concerns for individual clients, attorneys "influence[] all aspects of society, economy, and government"<sup>173</sup> and have a deep responsibility to behave with integrity.<sup>174</sup> Such a responsibility makes lawyers' struggles more than personal problems and supports a broad call for frank discussions about trauma.

Because law schools are generally located within larger universities, the task of creating additional learning opportunities on trauma and resilience for law students seems an attainable goal. The ongoing conversations about ACEs are now part of larger community discussions. Schools of social work, human sciences, family and child sciences, psychology, and other related disciplines are advantageously present for the development of interdisciplinary partnerships. Law students need to understand that when attorneys are not well, they will struggle to provide adequate services to clients.<sup>175</sup> Accordingly, ABA rules for law schools could be amended to add a requirement, however modest, for trauma training.

Education for lawyers and judges will no doubt be more difficult to achieve because its governance is more fragmented; each state individually governs the continuing legal education for lawyers in its jurisdiction. Even if multiple options exist—for example, in the

---

*strength of our legal justice system to govern and protect our society lies in its integrity and that integrity is built on the professionalism of the bench and the bar."*)

172. See Laura Rothstein, *Law Students and Lawyers with Mental Health and Substance Abuse Problems: Protecting the Public and the Individual*, 69 U. PITT. L. REV. 531, 531 (2008).

173. See Patrick R. Krill et al., *The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys*, 10 J. ADDICTION MED. 46, 46 (2016) (discussing how when lawyers experience impairments due to substance abuse or mental health struggles, this can greatly impact society); *id.* ("As a licensed profession that influences all aspects of society, economy, and government, levels of impairment among attorneys are of great importance and should therefore be closely evaluated.")

174. See ARCHIE M. ZARISKI, LEGAL LITERACY: AN INTRODUCTION TO LEGAL STUDIES 41–43 (2014) (stating that law serves an important role in how we structure our social world, that legal structures can empower some people and disempower others, that often lawyers are comfortable working within legal structures while others are not, and that these considerations lend a large responsibility to lawyers to behave with integrity).

175. Jerome M. Organ et al., *Suffering in Silence: The Survey of Law Student Well-Being and the Reluctance of Law Students to Seek Help for Substance Use and Mental Health Concerns*, 66 J. LEGAL EDUC. 116, 116, 156 (2016) (stating that law school administrations must emphasize and help improve their students' wellness to prepare them to be effective advocates, and educate that when attorneys are not well they struggle to provide their clients with the services they need).

community health setting, traditional continuing education forums, and online classes—lawyers would likely not be mandated to learn about ACEs and improving their wellness. Thus, most lawyers will probably not obtain the benefits of these tools without awareness in the legal community of the importance of ACEs to adult health. We encourage the ABA and state bar associations to investigate how best to communicate the crucial nature of such training and to disseminate the various ways for attorneys and judges to access it. Lawyers should be offered structured opportunities to benefit from the most current research, because healing is possible at every stage of life.<sup>176</sup>

### CONCLUSION

The otherwise admirable movement to improve lawyers' wellbeing has largely overlooked scientific insights into the roots of poor mental health. In particular, the legal community has not acted upon the understanding that ACEs can contribute significantly to adults' mental health problems. Because of the importance of the legal system and the acknowledged stresses inflicted by legal practice and its training, attorneys deserve and need to understand the persistent effects and maladaptive coping behaviors associated with ACEs. Moreover, the responsibility that lawyers bear to clients and society magnifies the harm caused by their impairment. Without a new commitment to educating attorneys about the impact of ACEs, law schools, bar associations, and leaders in the legal community are condemning countless lawyers to be plagued by their trauma histories—to the tragic detriment of lawyers' families, clients, communities, and mental health.

---

176. SUBSTANCE ABUSE, *supra* note 13, at 2 (stating that with appropriate support and intervention, people can overcome traumatic experiences).