



**NVLSP**  
NATIONAL VETERANS LEGAL SERVICES PROGRAM

## Effective Communication with Veterans to Build Better VA Claims

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### Presenter: Liz Tarloski



- Staff Attorney, focused on Training, BVA representation, and CAVC litigation
- Previously a Staff Attorney at Legal Aid of Southeastern PA (LASP) - Veterans Advocacy Project
- Served as a Visiting Professor of Practice at the William & Mary Law School Lewis B. Puller, Jr. Veterans Benefits Clinic

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“A soldier, if they hear fireworks, they may run and take cover. **Traumatic memories are not remembered, they are relived and re-experienced.**” – Dr. Ruth Lanius

<https://news.yale.edu/2023/11/30/study-reveals-distinct-brain-activity-triggered-memories-trauma>

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## Road Map

- Trauma-Informed Advocacy
- Client Centered Advocacy and Military Cultural Competency
- Setting the Stage – The Three Es
- The Personal Statement and Oral Testimony
- Clients in Crisis (with Resources)
- Recognizing Vicarious Trauma and Burnout

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## The Translator

Veteran



Attorney/Agent



VBA



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## The Translator


### Attorney/Claims Agent

- Knows the law
- Understands VA language

### Veteran

- Has a claim (possibly involving a stressor) they need assistance with

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## The Translator

Through understanding trauma and trauma-informed interviewing, you'll be translating for both VA and the veteran, making sure each one understands the other and that the veteran's story gets to the VA in a way that best supports their claim.

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## Background

Work in trauma-informed advocacy, vicarious trauma and burnout, and interviewing methods comes from numerous fields. These have been studied and taught in other professions long before the legal field.

- **Psychiatry/Psychology**
- **Social Work**
- **Law School Clinics**
- **Organizations that focus on IPV (DV), family law, and immigration**

**\*However, work with veterans has long informed the research on trauma\***

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## Trauma-Informed Advocacy

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# What is Trauma-Informed Advocacy?

“...the hallmarks of trauma informed practice are when the practitioner puts the realities of the client’s trauma experiences at the forefront in engaging with the client, and adjusts the practice approach informed by the individual client’s trauma experience.”

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

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# Trauma-Informed Advocacy

- How can we best work with and for our veterans? How can we be the best translator for our clients and our case?
- Beyond being knowledgeable about the law, being knowledgeable about trauma and the impact it has on our thoughts and behaviors will help bring together a successful claim

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# Trauma-Informed Advocacy

- Component 1: Identify trauma and it’s effects
- Component 2 : Adjust the attorney/agent-client relationship
- Component 3: Adapt litigation strategies

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

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# Trauma-Informed Advocacy



## Component 1

### IDENTIFY TRAUMA AND ITS EFFECTS

How does it present?

What does it look like?

How does it impact memory?

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

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# Trauma – Defined



- DSM-5 (PTSD):** when a person is exposed to “actual or threatened death, serious injury, or sexual violence
- American Psychological Association (APA) Dictionary:** Any disturbing experience that results in significant fear, helplessness, dissociation, confusion, or other disruptive feelings intense enough to have a long-lasting negative effect on a person’s attitudes, behavior, and other aspects of functioning

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# Trauma – Defined



- APA Dictionary (cont’d):**
  - Traumatic events include those caused by**
    - human behavior (e.g., rape, war, industrial accidents)
    - nature (e.g., earthquakes)
  - Traumatic events often challenge an individual’s view of the world as a just, safe, and predictable place

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## Trauma – Types

- **Combat**
- **Sexual Assault**
- **Racial Trauma**
- **Intimate Partner Violence (IPV)**
- **Community Violence**
- **Disasters and Terrorism**

**\*Can be individual events or collective events/experiences**

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## Trauma – Traumatic Brain Injury

TBI can be caused by a forceful bump, blow, or jolt to the head or body, or from an object that pierces the skull and enters the brain. Not all blows or jolts to the head result in a TBI.

- **Headaches**
- **Blurred vision**
- **Hearing problems**
- **Difficulty speaking**
- **Dizziness**
- **Difficulty concentrating or remembering things**
- **Repeating yourself**
- **Becoming easily angry or frustrated**

• <https://www.mentalhealth.va.gov/tbi/index.asp>; <https://www.ninds.nih.gov/health-information/disorders/traumatic-brain-injury-tbi>

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## Trauma – \*Disclaimer\*

- **Just because someone is a veteran does not mean they experienced trauma or that they have PTSD**
- **For those veterans who do experience trauma, not all are diagnosed with a condition such as PTSD, TBI, or depression (but they may still be impacted by the trauma they have experienced)**
- **People experience re-telling of the trauma differently**

• NVLSP (Lawyers Serving Lawyers) – Trauma Informed Best Practices Manual for Pro Bono Attorneys

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PTSD

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Risk v. Protective Factors

Development of PTSD will depend on risk and protective factors:

A characteristic of the person, environment, or traumatic event

...that initiates, exacerbates, or maintains a negative response is known as a risk factor

...that prevents, decreases, or contains a negative response is known as a protective factor

Park, Crystal L., and others, 'Risk and Resilience Factors for Traumatic Stress Disorders', in J. Gayle Beck, and Denise M. Sloan (eds), *The Oxford Handbook of Traumatic Stress Disorders*, 2nd edn, Oxford Library of Psychology (2022; online edn, Oxford Academic, 7 May 2020)

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PTSD

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Risk v. Protective Factors

1) Pre-trauma variables (risk: younger age, female. hx of psych problems in family, previous trauma, and previous MH problems)

2) Features of the traumatic experience (severity of trauma, perceived threat of injury or death more potent than actual combat tally, dissociation)

3) Post-trauma variables (protective: social support, stronger for military pop and women, but fears about retirement is a risk factor in older vets)

\*50-60% of people are exposed to trauma, but only 5-15% will develop PTSD

Park, Crystal L., and others, 'Risk and Resilience Factors for Traumatic Stress Disorders', in J. Gayle Beck, and Denise M. Sloan (eds), *The Oxford Handbook of Traumatic Stress Disorders*, 2nd edn, Oxford Library of Psychology (2022; online edn, Oxford Academic, 7 May 2020)

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Common Trauma Responses

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Intense or unpredictable feelings

Difficulties concentrating or making decisions

Sensitivities to environmental factors (loud noises)

Strained interpersonal relationships

Stress related physical symptoms

Suicidal tendencies

NVLSP (Lawyers Serving Lawyers) – Trauma Informed Best Practices Manual for Pro Bono Attorneys

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## Trauma Responses

- Drug/Alcohol addiction
- Unpredictable responses to routine questions
- Inability to remember relevant events
- Missing scheduled phone calls or meetings
- Difficulty trusting
- Sudden, seemingly unexplained lack of contact (avoidance)

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## Memory and Trauma

During a threatening event, the brain focuses on what is central to survival. It does not focus on insignificant and peripheral details, so it does not encode them.

- The Impact of Trauma on Adult Sexual Assault Victims 2019, Report Submitted to Research and Statistics Division, Justice Canada, Dr. Lori Haskell, C. Psych., Dr. Melanie Randall, [https://justice.gc.ca/eng/rp-pr/jr/trauma/trauma\\_eng.pdf](https://justice.gc.ca/eng/rp-pr/jr/trauma/trauma_eng.pdf)

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## Memory and PTSD

**“Abnormalities in memory (e.g., intrusive memories, avoidance of trauma-related memories) and attention (impaired concentration, hypervigilance) are central to the clinical presentation of PTSD and are included among the diagnostic criteria.”**

- Dolan S, Martindale S, Robinson J, Kimbrel NA, Meyer EC, Kruse MI, Morissette SB, Young KA, Gulliver SB. Neuropsychological sequelae of PTSD and TBI following war deployment among OEF/OIF veterans. *Neuropsychol Rev.* 2012 Mar;22(1):21-34

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## Effects of Trauma on the Brain and Body



### When a flashback is triggered:

- Significant decrease in activity in the speech center of the brain
- Broca's area (left frontal lobe) goes offline when a flashback was triggered
- "Deactivation of the left hemisphere has a direct impact on the capacity to organize experience into logical sequences and to translate our shifting feelings and perceptions into words."
- "The body keeps the score: brain, mind, and body in the healing of trauma." New York, New York: Viking 2014

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## Effects of Trauma on the Brain and Body



"When something reminds traumatized people of the past, their right brain reacts as if the traumatic event were happening in the present. But because their left brain is not working very well, they may not be aware that they are re-experiencing the past—they are just furious, terrified, enraged, ashamed or frozen."

- "The body keeps the score: brain, mind, and body in the healing of trauma." New York, New York: Viking 2014

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## Memory and Trauma Dissociative Amnesia



Diagnosis of dissociative amnesia is clinical, based on presence of the following criteria in the DSM-5:

- Patients cannot recall important personal information (usually trauma- or stress-related) that would not typically be lost with ordinary forgetting
- Symptoms cause significant distress or significantly impair social or occupational functioning

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## Types of Trauma that Impact VA Claims

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## Betrayal Trauma

A traumatic violation of trust in a close relationship, one where the victim depends on the perpetrator for survival or important needs. Betrayal can be by an individual or an institution.

**What makes it different other forms of trauma?**

- Betrayal of unit and/or leadership; betrayal of military service values
- Continued exposure to perpetrator
- Potentially serious loss of advancement, other occupational consequences

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## Cumulative Trauma

Both men and women who join the military have higher rates of sexual and physical abuse victimization history than the general population

- Irene Williams & Kunsook Bernstein, Military Sexual Trauma Among U.S. Female Veterans, 25 Archives of Psychiatric Nursing 138, 141 (2011)

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## Cumulative Trauma

When it is not possible to determine what portion of the current disability is related to service and what portion is related to pre-service, the entire disability must be attributed to service.

- *Mittleider v. West*, 11 Vet. App. 181 (1998); 38 U.S.C. § 5107(b) (benefit of doubt)

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## Moral Injury

Perpetrating, failing to prevent, bearing witness to, or learning about acts that transgress deeply held moral beliefs and expectations

- Committing harmful acts
- Witnessing harmful acts
- Failing to stop the harmful actions of others (acts of omission)

• <https://psycnet.apa.org/fulltext/2019-18482-001.html>; Kendall-Tackett, K. (2019). Emerging findings on trauma in the military. *Psychological Trauma: Theory, Research, Practice, and Policy*, 11(4), 369–371.

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## CLIENT-CENTERED ADVOCACY

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# Client-Centered Advocacy

“Clients are in the best position to understand how their lives will be affected by legal outcomes.”

- Client-Centered Lawyering and the Redefining of Professional Roles Among Appellate Public Defenders, Jonah A. Siegel, Jeanette M. Hussemann, Dawn Van Hoek.

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# Client-Centered Advocacy

“Clients’ objectives are tied to their feelings, relationships and experiences; their objectives often change over the course of representation; and their objectives are shaped in part by the information about the law and available legal options that their lawyers explain to them.”

- Kruse, Katherine R. (2011) "Engaged Client-Centered Representation of the Moral Foundations of the Lawyer-Client Relationship," Hofstra Law Review: Vol. 39: Iss. 3, Article 3.

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# Military Cultural Competency

- Have you served vs. are you a veteran?
- Understanding different types of discharges and how they may impact benefits and access to healthcare
- Not everyone identifies positively with their military experience
- Each branch has their own language
- <https://www.mentalhealth.va.gov/communityproviders/military-experience.asp> (Free Courses)

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## Military Cultural Competency



- Good and Bad experiences with VHA (including Vet Centers)
- Reserve and National Guard have different experiences
- Your military experience may have been different than your client’s experience (esp. with enlisted v. officer)

- <https://www.mentalhealth.va.gov/communityproviders/military-experience.asp> (Free Courses)

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## Language is Important



- In how a veteran describes their trauma, trauma verbiage may not be used at all
  - Ex: Men may be less likely to acknowledge and/or describe harassment or hazing in service as having a sexual component in MST claims
- Use person-first Language
  - Ex: “Veteran with a disability” not “disabled veteran”

- <https://design.va.gov/content-style-guide/health-content>
- Seamone, E. R. and Traskey, D. M. (2014) “Maximizing VA Benefits for Survivors of Military Sexual Trauma: A Practical Guide for Survivors and Their Advocates”, *Columbia Journal of Gender and Law*, 26(2)

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## Trauma-Informed Advocacy



### Component 2

### ADJUSTING THE CLIENT-ATTORNEY/AGENT RELATIONSHIP

What strategies do you have for working with individual client and their needs and concerns?

How do you maintain trust and a strong relationship, but also get important info?

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

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# SETTING THE STAGE

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## Setting the Stage

How can we build a relationship in a way that veterans feel comfortable, feel safe, and trust us, so that we are supporting them as people, but also increasing the odds of creating a winning case?

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## Setting the Stage – Three “E”s

Frame the *Experience* and *Expectations*; then *Evaluate*

- Set yourself up for a successful interview or conversation by framing the Experience and Expectations
- Then Evaluate and respond with care

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## Experience and Expectations

Experience: Help the client understand what the intake will be like and normalize the experience.

- “I’ll be asking you a lot of questions, but these are questions we ask everyone.”
- “We’ll have to talk about experiences that are painful, and that may cause you to have a strong reaction. Please don’t hesitate to let me know if you need a minute.”

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## Experience and Expectations

Communicate how the intake can help the client accomplish his/her goals

- “I may have to interrupt to make sure that I get all the answers I need. Is that ok with you?”
- “I know it’s so painful answering these questions, and I really appreciate your willingness to do so. All this information helps me get everything I need to file this claim.”

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## Experience and Expectations

- Lay out how the process and interview will go
- Introductions, your role in the process, how long you have, offer breaks, advanced notice about possible interruptions, water and tissues ready
- Make sure veteran feels safe

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## Experience



- **Trust:** Building trust will strengthen your relationship and lead to a stronger case
- **Belief:** Always start from a place of believing. Let the veteran know you are on their side.
- **Honesty:** Being honest, even if bad news, because will help build trust

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## Expectations



- **Managing Expectations:** Don't overpromise—you will be taken at your word. Let the veteran know you may need to follow up with more questions.
- **Reliability:** Being reliable, calling back when you say you will, updating client in a timely manner, calendaring follow up when there's avoidance, etc.
- **Patience:** Not only does trust take time, but sometimes getting a story can as well

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## Evaluate



- Take note of the client's presentation
- Is the client frustrated or worried about something? Do you need to reassure the client before moving forward?
- Mirror the client's stance to help them feel welcomed

**Respond to the client's mood:**

- **Angry:** Remain calm, approach task with a sense of practicality
- **Sad:** Gentle voice, calm face, maintain control of the conversation
- **Indifferent/apathetic:** Brisk conversational speed to assure them that you respect their time

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## NAVIGATING DIFFICULT RESPONSES

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## Navigating Difficult Responses – Low Volume

- Use open-ended questions. Avoid yes/no questions. Be affirming.
- “I understand it may be difficult to be here today. You show a lot of courage in coming here and I appreciate that. Can you please tell me more about...?”
- “It is often hard to talk about some things that may have happened while.... I understand that and have worked with a lot of clients who had trouble talking about their experiences. Can you tell me more about...?”
- Once the client starts to self-disclose, the interviewer should refrain from asking questions and just listen
  - National Council for Behavioral Health (now the National Council for Mental Wellbeing)  
Adapted by Dr. J. Johnson and E. Tarloski

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## Navigating Difficult Responses – High Volume

- Communicate care in short outbursts that redirect the conversation back to the task at hand, while reassuring the client of your care
- Ex: “What a terrible experience. I know that was overwhelming to share, but thank you. That really helps me understand the situation better. Now I need to ask you more about....”
- When you need to interrupt, acknowledge with care:
  - Ex: “I’m so sorry to interrupt, this has been really helpful, but I need to move onto some of these other questions.”
- National Council for Behavioral Health (now the National Council for Mental Wellbeing)  
Adapted by Dr. J. Johnson and E. Tarloski

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## Navigating Difficult Responses – Anger

Pause, Validate, Remind

- Pause**
  - Take a moment to collect yourself by taking a deep breath
  - Remind yourself that the anger does not reflect on you, but on a difficult system that the client is trying to navigate
- Validate**
  - “You’ve been waiting five years for a decision. That’s not easy and I’m asking the same questions you’ve had to answer before”
  - Affirm their experience
- National Council for Behavioral Health (now the National Council for Mental Wellbeing)  
Adapted by Dr. J. Johnson and E. Tarloski

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## Navigating Difficult Responses – Anger

- Remind**
  - Reiterate your dedication to helping the client through the process: “I know this is frustrating, but I’m going to help you through this intake. Let’s at least get this part done.”
  - Create buy-in by linking the intake to the client’s goals: “If we can get this done, it will really facilitate your claim.”
- National Council for Behavioral Health (now the National Council for Mental Wellbeing)  
Adapted by Dr. J. Johnson E. Tarloski

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## Navigating Difficult Responses – Grief

Grief is complicated and may show up as anger, flippancy, or anxiety. When a client breaks down, it can be overwhelming

- Pause, pass the tissue box, allow for a moment of silence**
  - This communicates that you are neither impatient nor uncomfortable with their grief
- Simple reflection**
  - “I hear so much sadness as you think of your dad’s death.”
- Balance care with the need to finish the interview**
  - “I cannot imagine how difficult this is for you. I have to keep us moving forward, but let me know if you need another minute. Ok? So let me ask you about....”

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# OARS

**Open-ended questions:** Can't be answered with "yes" or "no"


**Affirmations:** Supportive, encouraging words

**Reflections:** Restatements of what the client says

**Summaries:** Recaps to make sure you are on the same page

- National Council for Behavioral Health (now the National Council for Mental Wellbeing)  
Adapted by Dr. J. Johnson and E. Tarloski, Adapted from handouts by David Rosengren and from Miller & Rollnick, Motivational Interviewing, 2nd Ed., 2002)

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# Trauma-Informed Advocacy


## Component 3

### ADAPTING LITIGATION STRATEGY

How do you prepare for a hearing or write a good personal statement?

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

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# THE PERSONAL STATEMENT

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## Putting Together the Personal Statement

- Lay statements **alone** can establish the in-service event/disease/injury element of SC claim for most disabilities, if veteran is reporting something within their **competence** and found **credible** by VA
- **Exception: PTSD stressors (including MST), other than those that occurred during combat and fear of hostile and military terrorist activity, require corroboration**
- 38 CFR 3.304(f)



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## Lay Evidence

- Lay evidence can also:
  - Establish continuity of symptoms
  - Establish current disability (ex: tinnitus)
  - Trigger duty to assist:
    - VA medical exam/opinion
    - Obtaining records
  - Show severity of disability



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## Credibility and Competency

- **Credibility** is a blanket term for the fact finding of whether evidence is believable or not believable
- **Competent evidence** refers generally to evidence offered from a qualified source. A determination of evidentiary competency involves analysis of whether a person offering evidence is qualified to establish a matter.
- Manual M21-1, V.ii.1.A.2.b, c



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## Lay Evidence - Credibility

- **Factors VA considers in making a finding of credibility:**
  - **facial plausibility**
  - **consistency with other evidence submitted**
  - **internal consistency**
  - **demeanor of a witness (who is offering in-person testimonial evidence), and**
  - **interest/bias**
- Manual M21-1, V.ii.1.A.2.b



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## Lay Evidence – Competency

- **Lay evidence is competent if it is provided by a person who has knowledge of the facts or circumstances and conveys matters that can be observed and described by a lay person**
  - Vet competent to report hearing loss and tinnitus, because they can be observed a lay person
  - Vet competent to report continuity of symptoms
  - Vet generally not competent to determine nexus
  - Vet not competent to diagnose cancer, but is competent to report that doctor told her she has cancer
- See 38 C.F.R. § 3.159



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## VA Personal Statement Forms

- Form 21-4138, Statement in Support of Claim
- Form 21-10210, Lay/Witness Statement (contains witness contact information)
- Form 21-0781, Statement in Support of Claim for Service Connection for PTSD
- Form 21-0781a, Statement in Support of Claim for Service Connection for PTSD Secondary to Personal Assault
- If form not used: “I certify under penalty of perjury under the laws of the United States of America that this statement is true and correct.”

**\*Make sure Vet sends you statement to review before submitting to VA!**



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## The Personal Statement

- Focus of the statement depends on what element(s) you need supported. Make sure it contains correct and relevant information for the claim or appeal
- Ex: When seeking review of the denial of an increased rating claim, you will focus the statement on the severity of symptoms, as opposed to in-service event or continuity of symptoms



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## The Personal Statement: Starting Points

- To break the ice, ask for basic information such as unit assignments, dates of service, etc., or ask for information about claims unrelated to a traumatic event
- Always offer the veteran breaks as needed or the option of picking up another day
- Ask if you can take notes

**\*\*\*Normalize the experience\*\*\*\*\***



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## The Personal Statement: Different Approaches

- Use existing evidence – don't recreate the wheel
  - Is there already a good statement of record?
    - Attach first statement and note any additional evidence or clarifications
  - Is there an initial VA Mental Health Intake or Social Worker Note in VA CAPRI records? Private records?
  - Make sure veteran reads the existing statement in order to clarify or add info



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## The Personal Statement: Different Approaches



- **If starting from scratch**
  - Ask veteran to write first draft and send to you for editing. Prepare veteran for why you need to edit (translate for VA adjudication purposes), or
  - Have veteran dictate while you draft, or
  - In especially difficult cases, consider taking what is in the file (conversation notes and narratives from medical records), put it together for the veteran to read and edit or approve

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## The Personal Statement: Different Approaches



- **If starting from scratch (cont'd):**
  - If veteran is drafting statement: after discussing statement with veteran, send them easy-to-follow bullet points on what you want them to include
    - You can refer back to this list when you discuss edits
  - Set up a follow-up date to check-in about statement

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## The Personal Statement: Tips and Tricks



- If veteran has a therapist or social worker they trust and work well with, veteran may be able to write statement during a session with that professional. That way they have proper support.
- Addressing inconsistencies: Try to clarify for the VA why there may be any discrepancy in dates or other information in the file.
- For stressor dates: Give a timeframe of a month or months, as opposed to a specific date, unless veteran is certain of the date of the incident.

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## The Personal Statement: Tips and Tricks



- **Trouble with recall of dates:** Placing the event near a time of year or holiday, what they were wearing (heavy coats or light gear), whether they just received a promotion or disciplinary action, etc. can help jog memory
- **When describing symptoms, specific examples can always help**

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## The Personal Statement: Tips and Tricks



- **Include things that may seem very obvious, but that VA may question**
  - **Why they did not go to sick call (it was combat, there were more important things to worry about)**
  - **Why they did not report a stressor (\*\*Remind Vet most DO NOT report things like sexual harassment / assaults because of possible retaliation, shame, fear, loss of job advancement; VA recognizes this, but explaining these reasons may strengthen the claim, especially if markers are weak\*\*)**

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## The Personal Statement: Tips and Tricks



- **Know the Criteria for Service Connection**
  - **Example: DC 8100, Migraine**
    - With very frequent completely prostrating and prolonged attacks productive of severe economic inadaptability.... 50
    - With characteristic prostrating attacks occurring on an average once a month over last several months..... 30
    - With characteristic prostrating attacks averaging one in 2 months over last several months..... 10
    - With less frequent attacks..... 0
  - **38 C.F.R. § 4.124a**

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## The Personal Statement

- **Language for Statement:**
  - “When I get one of these migraines, I need to lay down for an entire day in the dark with no noise.”
  - instead of
  - “I can’t go to work, it really messes up my day”

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## The Personal Statement: Family and Friends

- **Family and Friends can submit “Buddy Statements”**
- **Spouse’s statements can be especially helpful if a veteran tends to underreport**
  - **Veteran:** “I hardly get any sleep, I’m always tossing and turning.”
  - **Spouse:** “This has been going on for at least ten years and has gotten worse in the last two, almost every night. Shannon [Vet] accidentally punched and kicked me while asleep and was screaming out. Finally, I started sleeping in a separate room.”

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## The Personal Statement: Family and Friends

- **Helpful:**
  - **Contemporaneous accounts:** The person knew the veteran at the time X happened
  - **Describing symptoms as they’re observed by another person**
- **Not as helpful:**
  - **When veteran is trying to prove in-service stressor 30 years ago and the person writes that they met the veteran last year and told them about the stressor**

**\*Again, always have statements sent to you. Can also send them bullet points on what to write about**

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## Oral Testimony

- When client has a moving or sympathetic story
- They really want to have their “day in court”
- There are no rules of evidence
- No rules against “leading the witness”
- Prepare, prepare, prepare!

**\*\*Be prepared to “rehabilitate the witness.”**

**Trauma survivors are not always able to give coherent, linear accounts**

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## VETERANS IN CRISIS

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## Veterans in Crisis

- Recognize your role as an attorney/agent, and not therapist or doctor
- Recognize limitations on legal advice
- Preparing for potential crisis:
  - Is there someone you can call that the veteran trusts if you cannot get a hold of them?
  - Know your organization’s policies for when a veteran is in crisis or threatening suicide
  - Have a list of resources readily available

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## Veterans in Crisis

- Client-centered, trauma-informed advocacy requires us view our veterans *as someone with other worries outside the law*
- Recognize that their VA case might not be a priority for them, especially if:
  - Basic needs are not met (housing, food)
  - Struggling with mental or physical health problems
  - They are a caretaker
  - Necessary to work long hours/multiple jobs/looking for a job

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## Veterans in Crisis

- More than 1.6 million veterans have family incomes below 125% of Federal Poverty Line
  - \$18,225 (Household of 1)
  - \$37,500 (Household of 4)
- Low-income veterans and other military personnel only seek professional legal help for 34% of their civil legal problems
- Prevalence of Civil Legal Problems
  - 76% had 1+ problems
  - 44% had 5+ problems
  - 27% had 10+ problems
- Legal Services Corporation. 2022. The Justice Gap: The Unmet Civil Legal Needs of Low-income Americans. Prepared by Mary C. Slosar, Slosar Research, LLC.

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## Veterans in Crisis

- Top unmet legal needs of veterans in low-income households
  - Health: difficulty getting sufficient health insurance coverage, incorrect billing for medical services, difficulty accessing needed health care from providers
  - Consumer Issues: medical debt, having utilities disconnected, harassment from creditors, falling victim to scams
  - Income Maintenance: difficulty accessing benefits to supplement income and meet their household's basic needs (ex: TANF, unemployment benefits)
- Legal Services Corporation. 2022. The Justice Gap: The Unmet Civil Legal Needs of Low-income Americans. Prepared by Mary C. Slosar, Slosar Research, LLC.

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## Veterans in Crisis

- Have a list of resources to which you can provide a warm handoff. Engage in cross-organizational information sharing. Example: time lines.
- Build partnerships/relationship with organizations, particularly in your area, that provide other resources

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## Veterans in Crisis

- Examples of helpful resources/organizations:
  - Legal Aid Organizations for Civil Legal Assistance (Family Law, Housing)
  - Public Defender Office and Veterans Justice Outreach (VJO) Worker at VA
  - National, State, and Local Bar Association Legal Referral Services
  - Housing Resources
  - Elder Care
  - Mental Health
  - Other

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## Veterans in Crisis

- Don't be afraid to use direct language in engaging with a veteran who is threatening suicide
- Take VA's S.A.V.E. Training or other similar training, such as training on use of Columbia Protocol / Columbia-Suicide Severity Rating Scale
- Talk to your firm about policies that are in place for when a veteran threatens harm to themselves or others

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## Veterans in Crisis

### Other Resources

- Suicide and Crisis Lifeline 988 and press “1” for veterans.
  - Family, friends, VSOs, etc. can call about someone
- VAMCs
- Vet Centers
- Low-cost (sliding scale) and no-cost therapy options (location specific)
- <https://mobile.va.gov/mental-health-and-behavioral-therapy-apps>
- Therapists familiar with military knowledge

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## Veterans in Crisis

- ABA Model Rule 1.6(b)(1) – permitted to reveal confidential information to the extent necessary to prevent certain death or substantial bodily harm.

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## Veterans in Crisis

In some counties, there are Veteran Response Team (VRT) members, specially trained law enforcement officers (LEO), and first responders who coordinate with local VA Veterans Justice Outreach (VJO) specialists when they interact with Veterans

- [www.va.gov/coatesville-health-care/stories/responding-to-veterans-in-crisis/](http://www.va.gov/coatesville-health-care/stories/responding-to-veterans-in-crisis/)
- [cops.usdoj.gov/html/dispatch/03-2023/defusing\\_crises.html](http://cops.usdoj.gov/html/dispatch/03-2023/defusing_crises.html)

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## Trauma Informed Advocacy

“Trauma-informed practice also encompasses the practitioner employing modes of self-care to counterbalance the effect the client’s trauma experience may have on the practitioner.”

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

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## VICARIOUS TRAUMA AND BURNOUT

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## Vicarious Trauma and Burnout

A new lumberjack is cutting down trees in the forest. As the days go on, he is able to cut down fewer and fewer trees. An experienced lumberjack comes by and the new lumberjack shares the problem he’s having. The seasoned lumberjack asks, “When is the last time you sharpened your axe?”

The new lumberjack responded, “Sharpen my axe? I don’t have time to do that with all these trees to cut down!”

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## Vicarious Trauma

- “the psychological signs and symptoms that result from ongoing involvement with traumatized clients”
- When one experiences, to a lesser degree, symptoms similar to those who experienced the primary trauma
- Also known as “secondary trauma”
  - Fischman, Y. (2008). Secondary trauma in legal professions, a clinical perspective. *Torture*, 18(2), 107-115

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## Burnout

- Results from chronic workplace stress that has not been successfully managed
- Can present as:
  - a sense of reduced accomplishment
  - loss of personal identity
  - Sustained feelings of exhaustion
- Substance Abuse and Mental Health Services Administration (SAMHSA): Addressing Burnout in the Behavioral Health Workforce Through Organizational Strategies. SAMHSA Publication No. PEP22-05-02-005. Rockville, MD: National Mental Health and Substance Use Policy Laboratory. Substance Abuse and Mental Health Services Administration, 2022.

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## Identifying Burnout and Vicarious Trauma

### Vicarious Trauma

- Fear, helplessness, horror
- Anger, rage, sleep disturbances
- Alterations in memory, irritability, difficulty concentrating
- Avoidance, numbness, detachment and estrangement from others

### Burnout

- Apathy, feelings of hopelessness, rapid exhaustion
- Disillusionment, melancholy, forgetfulness
- Irritability, experiencing work as a heavy burden
- An alienated, impersonal, uncaring and cynical attitude toward clients
- Tendency to blame oneself, coupled with a feeling of failure

Fischman, Y. (2008). Secondary trauma in legal professions, a clinical perspective. *Torture*, 18(2), 107-115
Pross, C. (2006). Burnout, vicarious traumatization and its prevention. *Torture*, 16(1), 1-9

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## Addressing Vicarious Trauma and Burnout Early



Figuring out ahead of time how you will respond to your own burnout and vicarious trauma is just as important as your preparation for clients' trauma responses

- Adapted from Saakvitne, K. & Pearlman, L. (1996). Transforming the Pain: A Workbook on Vicarious Traumatization for Helping Professionals who Work with Traumatized Clients. New York, New York: W.W. Norton and Company.

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## Addressing Vicarious Trauma and Burnout Early



- Try to designate specific times/checkpoints at which you will stop to assess how you are doing
- Decide what to do if you are not at your best
- Follow through and remain accountable to yourself
- Create check-ins with coworkers or weekly standing meetings

- Adapted from Saakvitne, K. & Pearlman, L. (1996). Transforming the Pain: A Workbook on Vicarious Traumatization for Helping Professionals who Work with Traumatized Clients. New York, New York: W.W. Norton and Company.

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## Helping the Helper



The risks of vicarious trauma for attorneys working with survivors of trauma may be even higher than those in other helping professions, because those in the legal profession tend to have higher caseloads and to not be trained in the dynamics of trauma.

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

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## Helping the Helper

“our legal culture, ...provides no vocabulary, no ongoing discourse, no arena, and, arguably, no permission for discussion of coping strategies and their emotional effects.”

- Bandes, Susan A., Repression and Denial in Criminal Lawyering. Buffalo Criminal Law Review, Vol. 9, No. 2, February 2006, UC Berkeley Public Law Research Paper No. 789764, NYLS Clinical Research Institute Paper No. 09/10 #16, Available at SSRN: <https://ssrn.com/abstract=789764>

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## Awareness, Balance, Connect

A

B

C

### Awareness

- **Learn**
  - ❖ Learn the warning signs of burnout and vicarious trauma as we are doing now
- **Take**
  - ❖ Take your “emotional pulse”
- **Reflect**
  - ❖ Take time for self-reflection to determine if any of those signs are appearing in your life

• Adapted from Saakvitne, K. & Pearlman, L. (1996). Transforming the Pain: A Workbook on Vicarious Traumatization for Helping Professionals who Work with Traumatized Clients. New York, New York: W.W. Norton and Company

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## Awareness, Balance, Connect

### Balance

- **Take Time**
  - ❖ Take time away from work
- **Outside**
  - ❖ Spend time with your loved ones outside of work
- **Create**
  - ❖ Create thoughtful boundaries
- **Write**
  - ❖ Write out how you are feeling in the moment
- **Pause**
  - ❖ Take time to exercise or meditate
- **Celebrate**
  - ❖ Celebrate the positives when they happen

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## Awareness, Balance, Connect



### Connect

- Reach out to the people around you
- Seek outside help when needed
- Share what you know



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## Addressing Vicarious Trauma and Burnout



### Professional Quality of Life Scale (ProQOL)

- The ProQOL (Professional Quality of Life Scale) was developed as a measure of both the negative and positive effects of working with those who have experienced traumatic stress. The ProQOL has subscales for compassion satisfaction, burnout, and compassion fatigue. It has proven to be a valid measure of compassion satisfaction and fatigue, and was developed with data from over 3000 people.

• [www.ptsd.va.gov/professional/treat/care/toolkits/provider/selfAssessmentProQOL.asp](http://www.ptsd.va.gov/professional/treat/care/toolkits/provider/selfAssessmentProQOL.asp)

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## Addressing Vicarious Trauma and Burnout



- SAMHSA's (Substance Abuse and Mental Health Services Administration) National Helpline for individuals and families facing mental and/or substance use disorders
  - 1-800-662-HELP (4357)

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## LIBRARY OF PAST WEBINARS

- Previous NVLSP webinars are available at <https://productsbynvlsp.org/product-category/on-demand-webinars-attorney/>
- Webinars are available for 72 hours after purchase
  - Topics include:
    - VA Accreditation Training – Attorney and Agent Practice Before the VA
    - Navigating VA’s Modernized/AMA Review System
    - VA Benefits Based on National Guard and Reserve Service

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## NVLSP VA BENEFIT IDENTIFIER APP

- Questionnaire/App: Helps Vets and advocates figure out what VA service-connected disability benefits or non-service-connected pension benefits they might be entitled to
- 3 WAYS to Access:
  - [NVLSP Website](#)

Download on the App Store

ANDROID APP ON Google play

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## NVLSP TRAINING OPPORTUNITIES



- NVLSP offers private in-person and webinar training tailored to the needs of your organization
- If you are interested in finding out more info, please contact Director of Training and Publications, Rick Spataro, at [richard@nvlsp.org](mailto:richard@nvlsp.org)

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