

The Trauma-Informed Courtroom

Hon. Peggy Fulton Hora
Judge of the Superior Court
of California (Ret.)
President, Justice Speakers Institute



Justice Speakers Institute

SPEAKING, TEACHING & TRAINING - WORLDWIDE

Change the Paradigm

Change the question
from, "What's wrong
with you?"

To one that asks,
"What has happened
to you?"

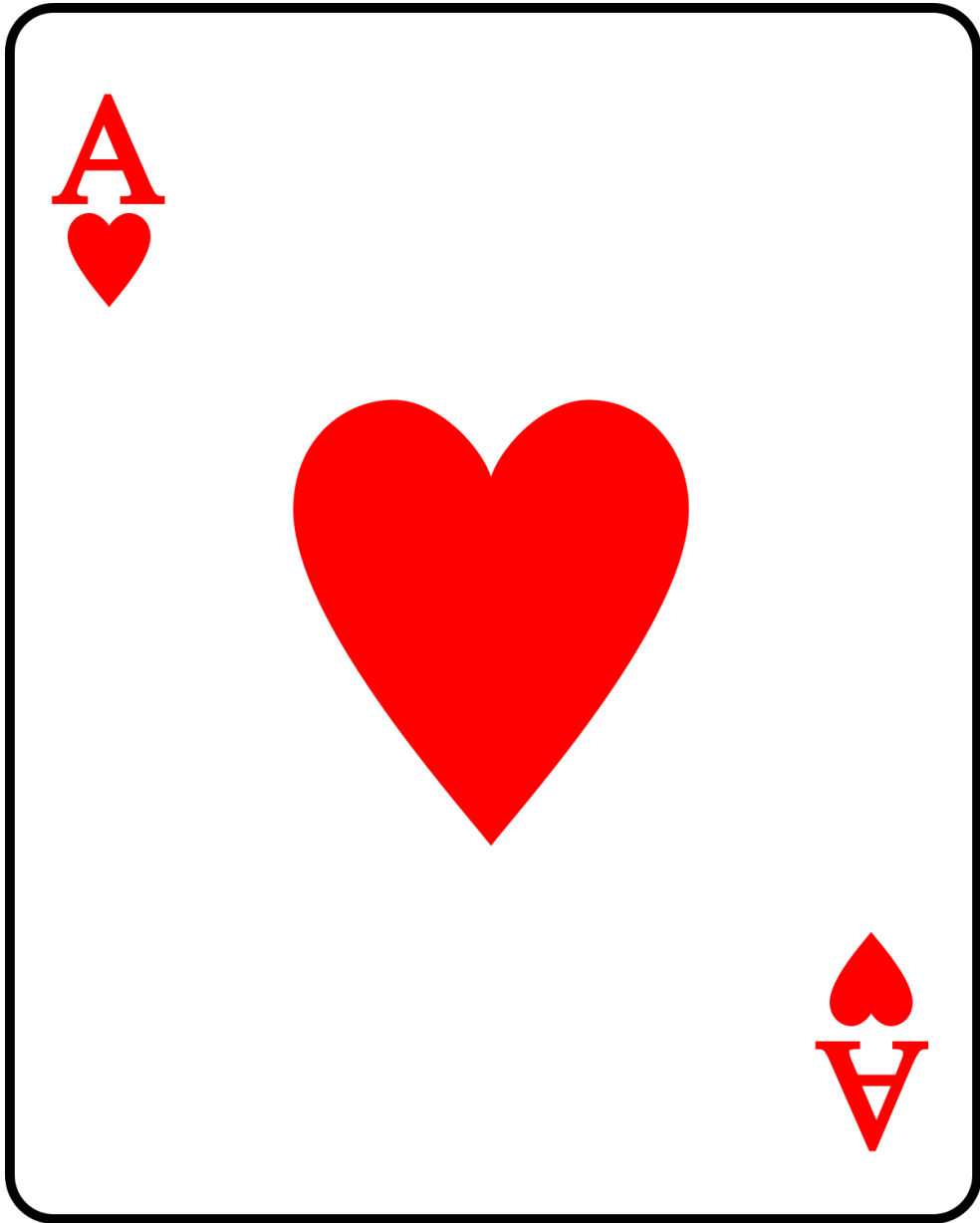


- Buffalo Center for Social Research (2019)



ACEs are

ADVERSE
CHILDHOOD
EXPERIENCES



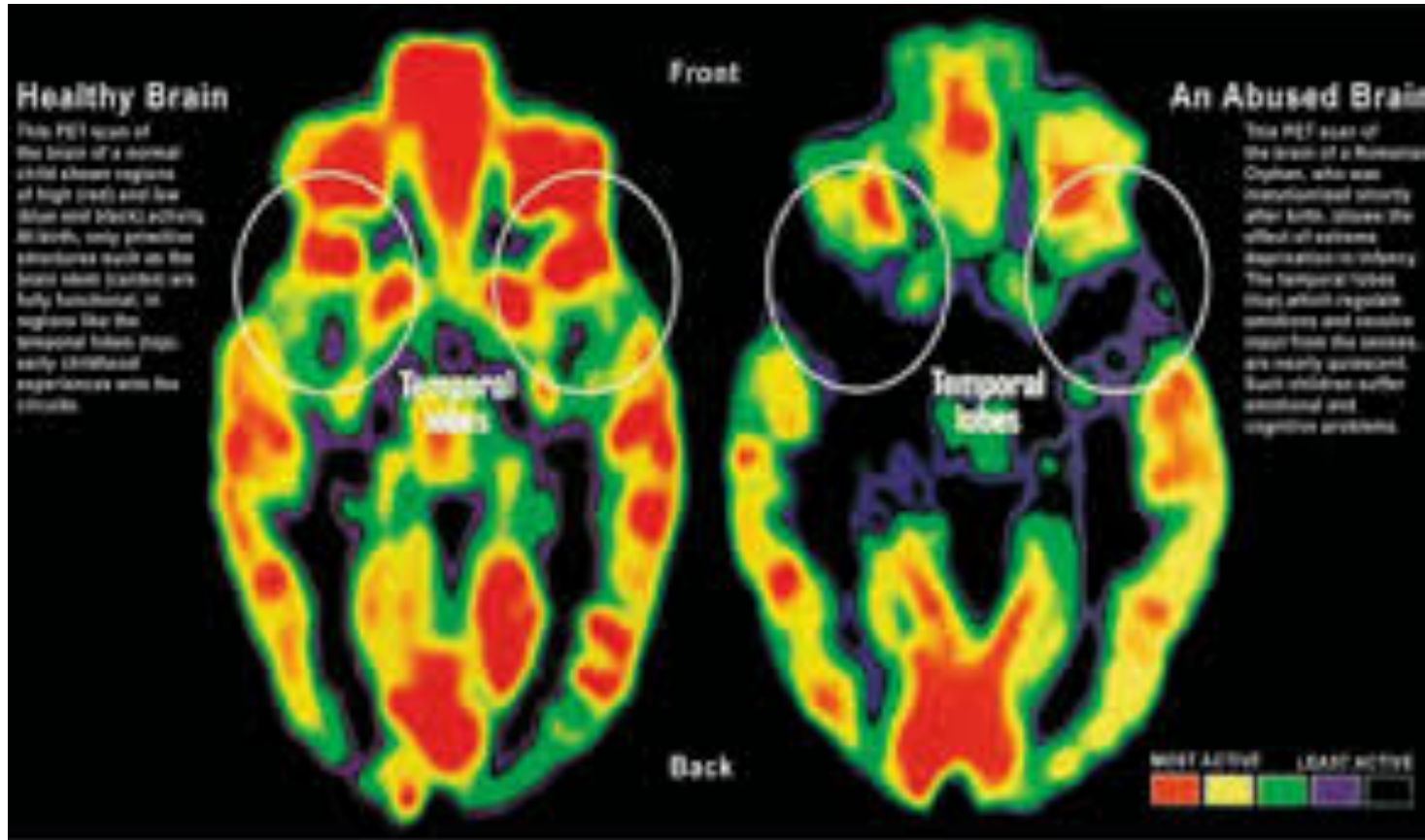
1. Recurrent physical abuse
2. Recurrent emotional abuse
3. Sexual abuse
4. Physical neglect
5. Emotional neglect
6. An alcohol or other drug abuser in the household
7. An incarcerated family member
8. A household member who was chronically depressed, mentally ill, institutionalized or suicidal
9. Violence between adults in the home
10. Parental separation or divorce





ACEs Study

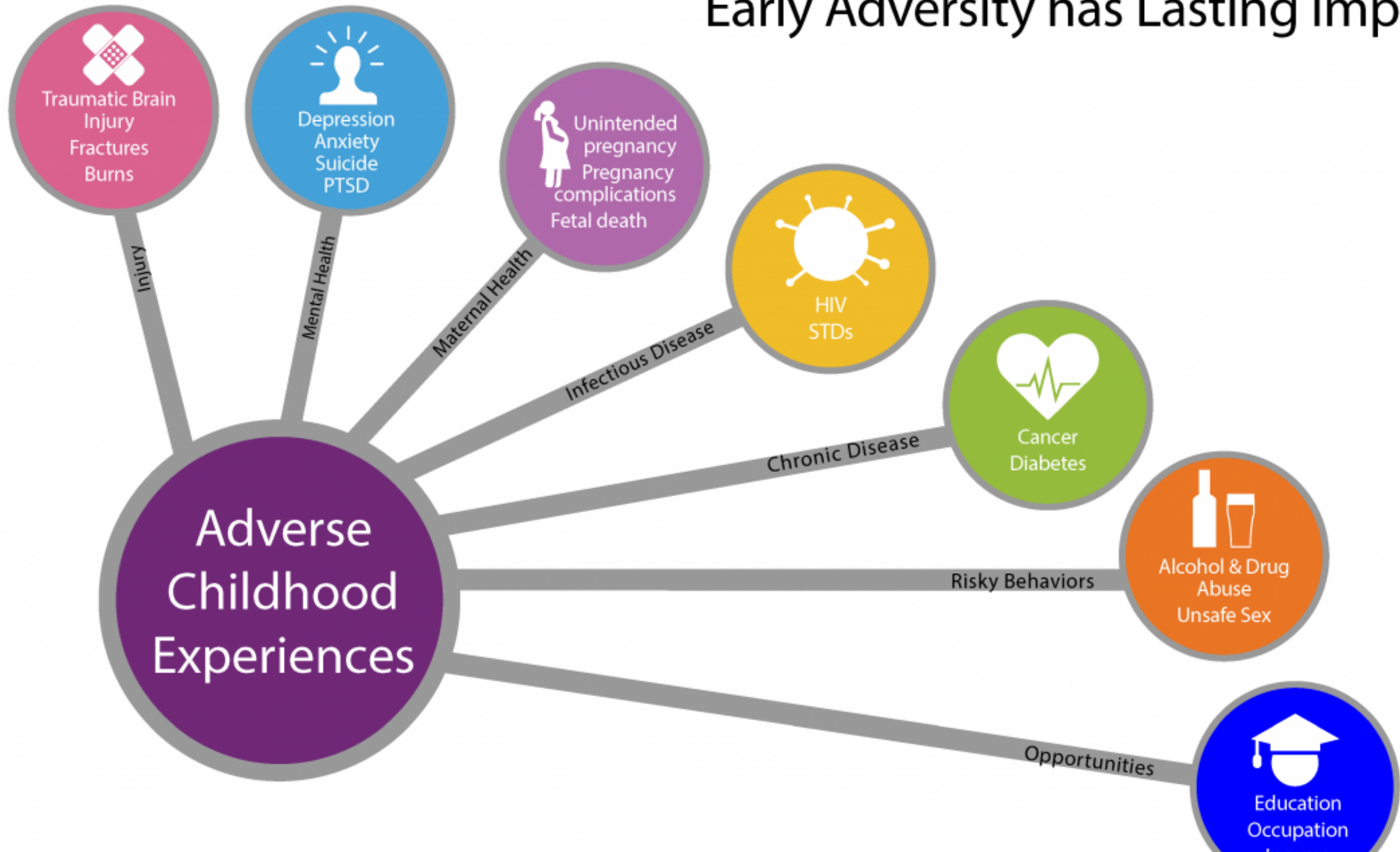
- Explored how childhood trauma affects health across a lifetime
- 17,000 reviewed (75%white, 39% college graduates)
- Joint project of Kaiser Permanente in San Diego and CDC



1. Hormone levels change
2. Immune system changes
3. Neurological changes
4. Epigenetic changes

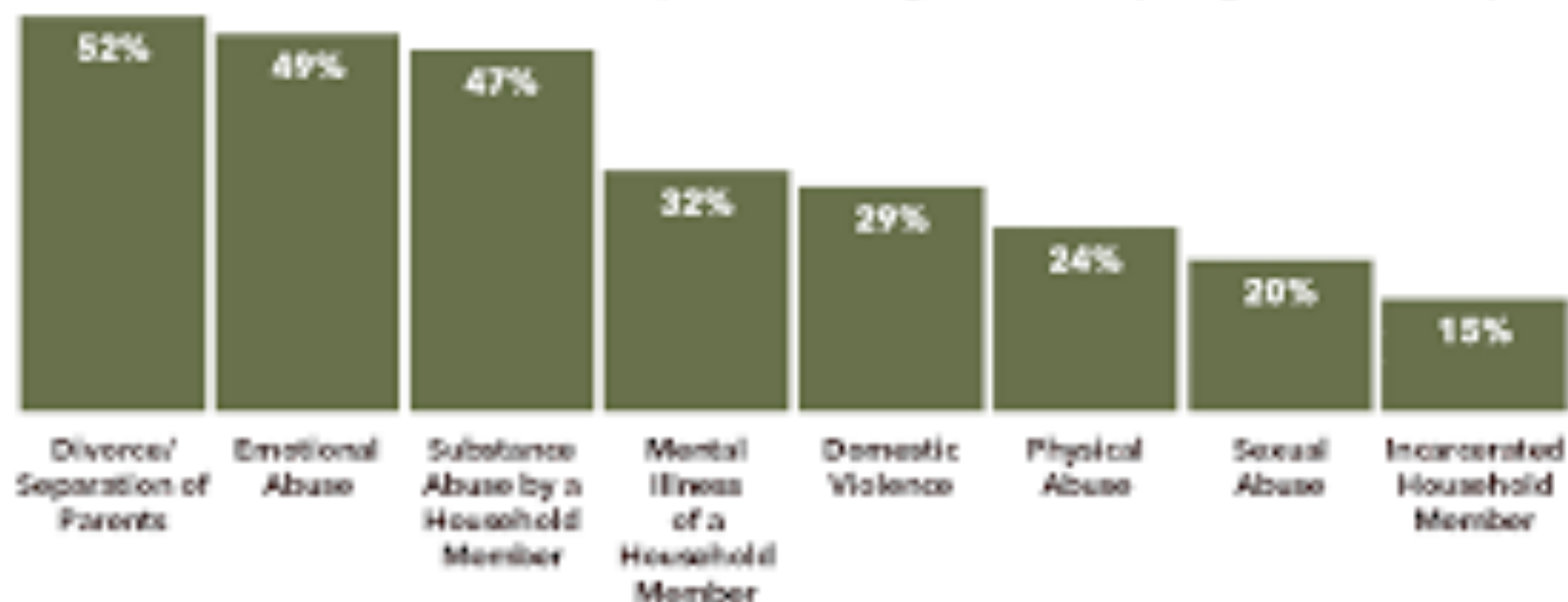
- a) Mental health
- b) Substance use disorders
- c) Heart disease
- d) Obesity
- e) Etc.

Early Adversity has Lasting Impacts



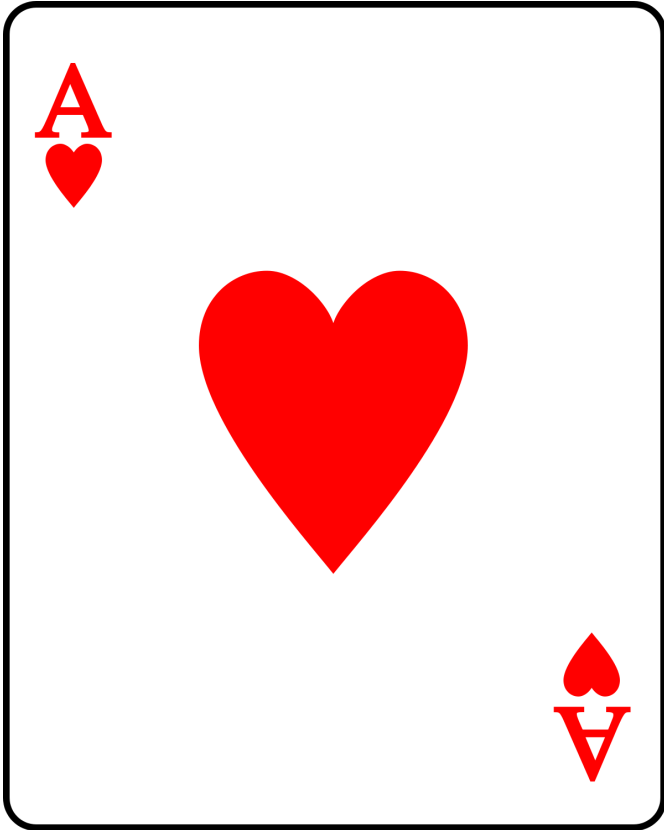
The Most Common Adverse Childhood Experiences Among Tennesseans Are Divorce/Separation and Emotional Abuse

Prevalence of Common Adverse Childhood Experiences Among TN Adults Reporting 1 or More ACE (2014-2017)



Source: The Sycamore Institute's analysis of 2014-2017 CDC BRFSS data provided by the TN Department of Health, Division of Policy, Planning and Assessment, Office of Health Statistics.

SycamoreInstituteTN.org



U.S. adult prevalence

- 144 017 adults aged 18 years or older from 25 participated in Behavioral Risk Factor Surveillance System
- 60.9% of adults reported they had experienced at least 1 type of ACE in their lifetime
- 15.6% (1 in 6 adults) reported they had experienced 4 or more types of ACEs

Centers for Disease Control and Prevention (2019)



Justice Speakers Institute
SPEAKING, TEACHING & TRAINING WORLDWIDE



Nadine
Burke Harris,
M.D.,
Surgeon
General of
California

“Toxic Stress”



The single greatest unaddressed
public health threat in the United
States



Recent call for the screening
of all children for ACEs

SAMHSA's Six Key Principles of a Trauma-Informed Approach

- A trauma-informed approach reflects adherence to six key principles rather than a prescribed set of practices or procedures. These principles may be generalizable across multiple types of settings, although terminology and application may be setting- or sector-specific:
 - Safety
 - Trustworthiness and Transparency
 - Peer support
 - Collaboration and mutuality
 - Empowerment, voice and choice
 - Cultural, historical, and gender Issues



Trauma-Specific Interventions

- Trauma-specific intervention programs generally recognize the following:
 - The survivor's need to be respected, informed, connected, and hopeful regarding their own recovery
 - The interrelation between trauma and symptoms of trauma such as substance use disorders, eating disorders, depression, and anxiety
 - The need to work in a collaborative way with survivors, family and friends of the survivor, and other human services agencies in a manner that will empower survivors and consumers

Trauma-informed Care, SAMHSA (04/27/2018)



Office of Victims of Crime (OVC) Recommends:

- **Encourage Suggestions from Other Court Stakeholders.**
- Encourage parties to cases, attorneys, and *guardians ad litem* to make specific requests for any possible and reasonable adjustment to the proceedings.



OVC Recommends:

- **Step Down and Leave the Judge's Robe at the Bench.**
- On a limited basis, if no one's personal safety is compromised, a judicial officer may consider sitting at the victim's table with the *pro se* party, especially if the victim does not have legal representation, or with any minor child and the child's *guardian ad litem* or court-appointed special advocate.



OVC Recommends:

- **Adjust the Lighting in the Courtroom.**
- Decreasing the lighting may feel more comfortable to individuals who are light sensitive or have certain sensory limitations.
- Discuss this with the victim, victim's case manager, or representative to ensure that dimming the lights is not potentially triggering.



The background of the slide features a top-down view of several small, reddish-brown terracotta bowls arranged on a dark wooden surface. The bowls contain various snacks: one has orange-brown pretzels, another has golden-brown fried items, a central bowl is filled with peanuts (some in their shells, some cracked open to show the red skin), another has light-colored popcorn, and others contain almonds and banana chips. A large, semi-transparent white circle is overlaid on the right side of the image, containing the text.

OVC Recommends:

- **Provide Simple Conveniences Like a Box of Tissues or a Bowl of Snacks.**
- Aside from providing an energy boost for anyone in the courtroom, a piece of candy or fruit can often help victims feel calmer and more welcome.



ALIGNING WHAT WE KNOW
WITH WHAT WE DO

- **Trauma-Awareness:**

- Many courts have come to recognize that acknowledging and understanding the impact of trauma on court participants may lead to more successful interactions and outcomes
- Courts that do not practice trauma-informed decision making may inadvertently increase the level of trauma that families experience

- **Every interaction is an opportunity**

- Triggiano, Mary Hon., "Childhood Trauma: Essential Information for Courts," Wisconsin Association of Treatment Court Professionals, (Mar. 26, 2015)

“If you don’t heal what hurt you,
you’ll bleed on people who didn’t
cut you.”

pacifica



Justice Speakers Institute
SPEAKING, TEACHING & TRAINING WORLDWIDE

Courtroom Procedure

Court officer handcuffs an individual without warning.

Reaction of Trauma Survivor

Anxiety about being restrained; fear about what is going to happen.

Trauma-Informed Approach

Tell the court officer and individual you intend to remand them. Explain why. Explain what is going to happen and when. “The officer is going to walk behind you and you will be handcuffed.”



Courtroom Experience

Judge remands one participant for having a positive test but not another. They are both in the courtroom at the same time.

Reaction of Trauma Survivor

Concern about fairness; feeling that someone else is getting special treatment.

Trauma-Informed Approach

Explain for first participant, sobriety is a proximal goal and for second it is not. Compare time in the program and progress in treatment. Explain jail is a last resort and you hope participant will not give up on recovery.

Courtroom Experience

Individuals who are agitated or “acting out” are required to wait before speaking to the judge.

Reaction of Trauma Survivor

Increased agitation; anxiety; acting out.

Trauma-Informed Approach

Provide scheduling information so participants know what will be expected of them and when. Prioritize those who appear before you and when. Those who are especially anxious may have the most trouble waiting and be more likely to act out.

Courtroom Experience

A judge conducts a sidebar conversation with attorneys.

Reaction of Trauma Survivor

Suspicion, betrayal, shame, fear.

Trauma-Informed Approach

Tell participant what is happening and why. “We have to discuss some issues related to your case. We just need a minute to do it on the side.”



Judge's Comment

“Your test came back dirty.”

Perception of Trauma Survivor

“I’m dirty.” “There is something wrong with me.”

Trauma-Informed Approach

“Your drug screen showed the presence of drugs.” “Your drug test was positive.”



Judge's Comment

"Did you take your meds today?"

Perception of Trauma Survivor

"I'm a failure. I'm a bad person. No one cares how the drugs make me feel."

Trauma-Informed Approach

"Are the medications your doctor prescribed working well for you?"



Justice Speakers Institute
SPEAKING, TEACHING & TRAINING WORLDWIDE

Judge's Comment

"You didn't follow the contract. You're going to jail.

We're done with you. There is nothing more we can do."

Perception of Trauma Survivor

"I'm hopeless. Why should I care how I behave in jail?" "They expect trouble anyway."

Trauma-Informed Approach

"Maybe what we've been doing isn't the best way for us to support you. I'm going to ask you not to give up on recovery. We're not going to give up on you."



Judge's Comment

"I'm ordering you to get a mental health evaluation."

Perception of Trauma Survivor

"I must be crazy. There is something wrong with me that can't be fixed."

Trauma-Informed Approach

"I'd like to refer you to a doctor who can help us better understand how to support you."

"Essential Components of Trauma-informed Judicial Practice"

SAMHSA (2013)



Scenario #1 – Crystal



Scenario #2 – Jessie



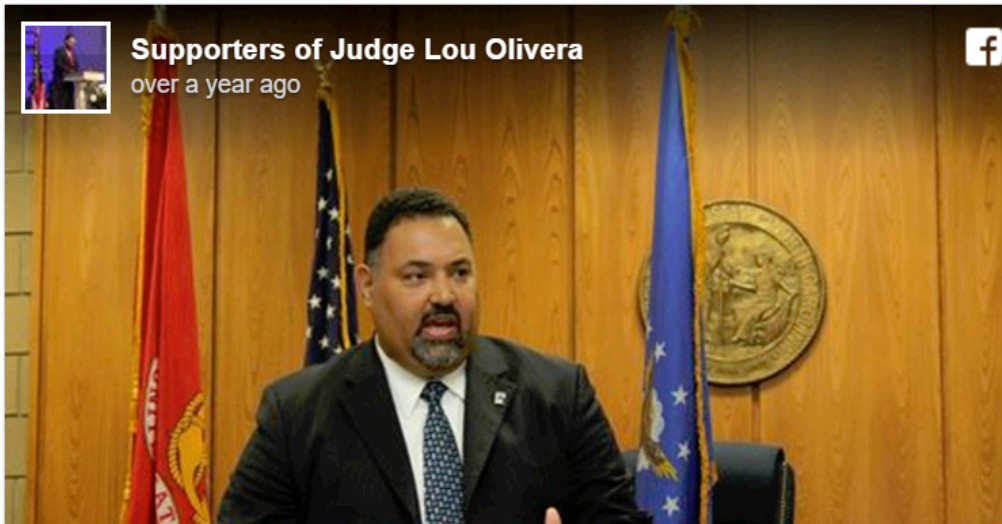
Scenario #2 -- Joe



Morning Mix

A compassionate judge sentences a veteran to 24 hours in jail, then joins him behind bars

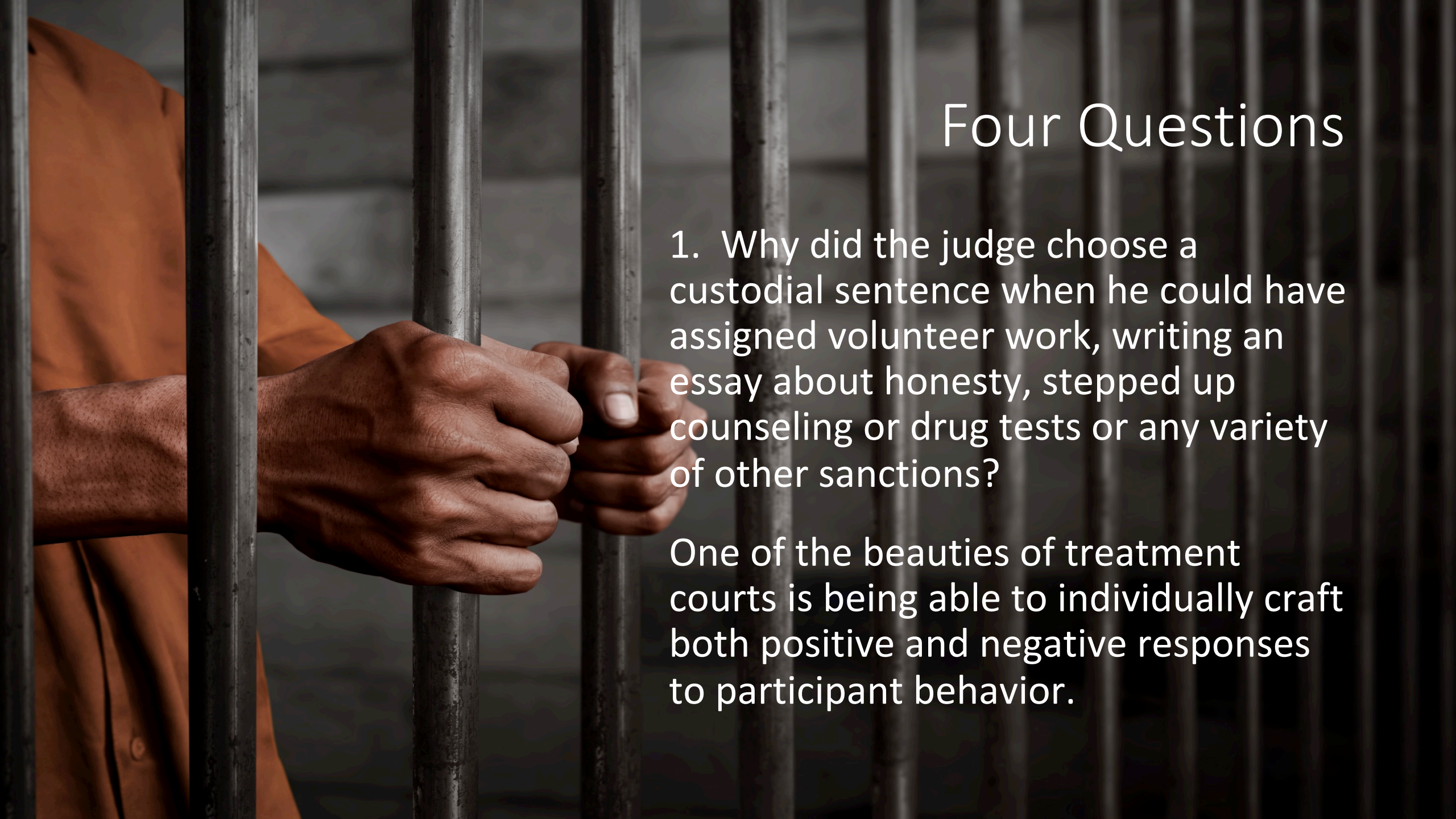
By **Yanan Wang** April 22 at 4:12 AM 



Cumberland Co., NC



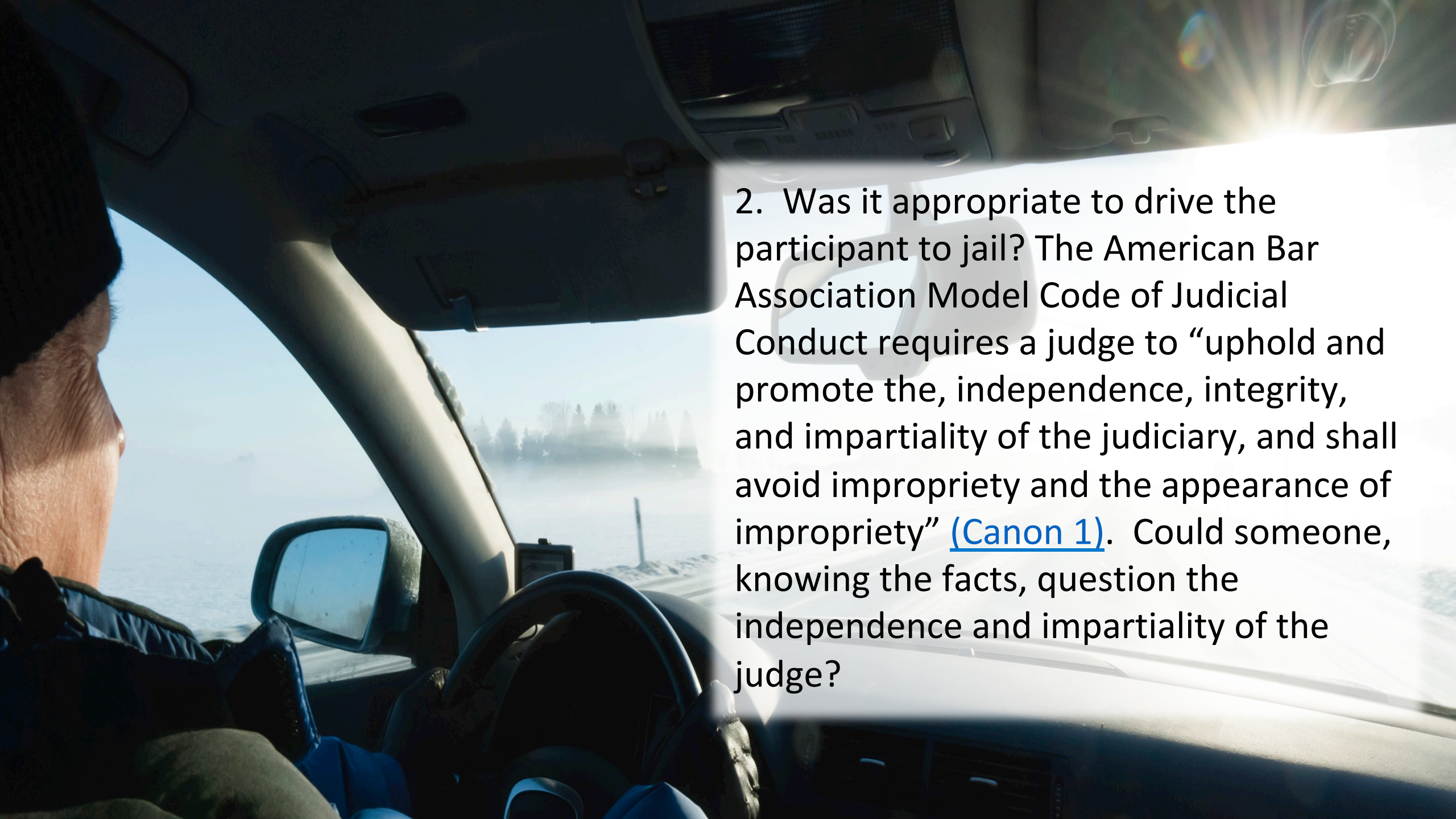
Justice Speakers Institute
SPEAKING, TEACHING & TRAINING WORLDWIDE

A person wearing an orange jumpsuit is shown from the chest down, holding onto vertical metal bars. The background is a blurred grey wall.

Four Questions

1. Why did the judge choose a custodial sentence when he could have assigned volunteer work, writing an essay about honesty, stepped up counseling or drug tests or any variety of other sanctions?

One of the beauties of treatment courts is being able to individually craft both positive and negative responses to participant behavior.

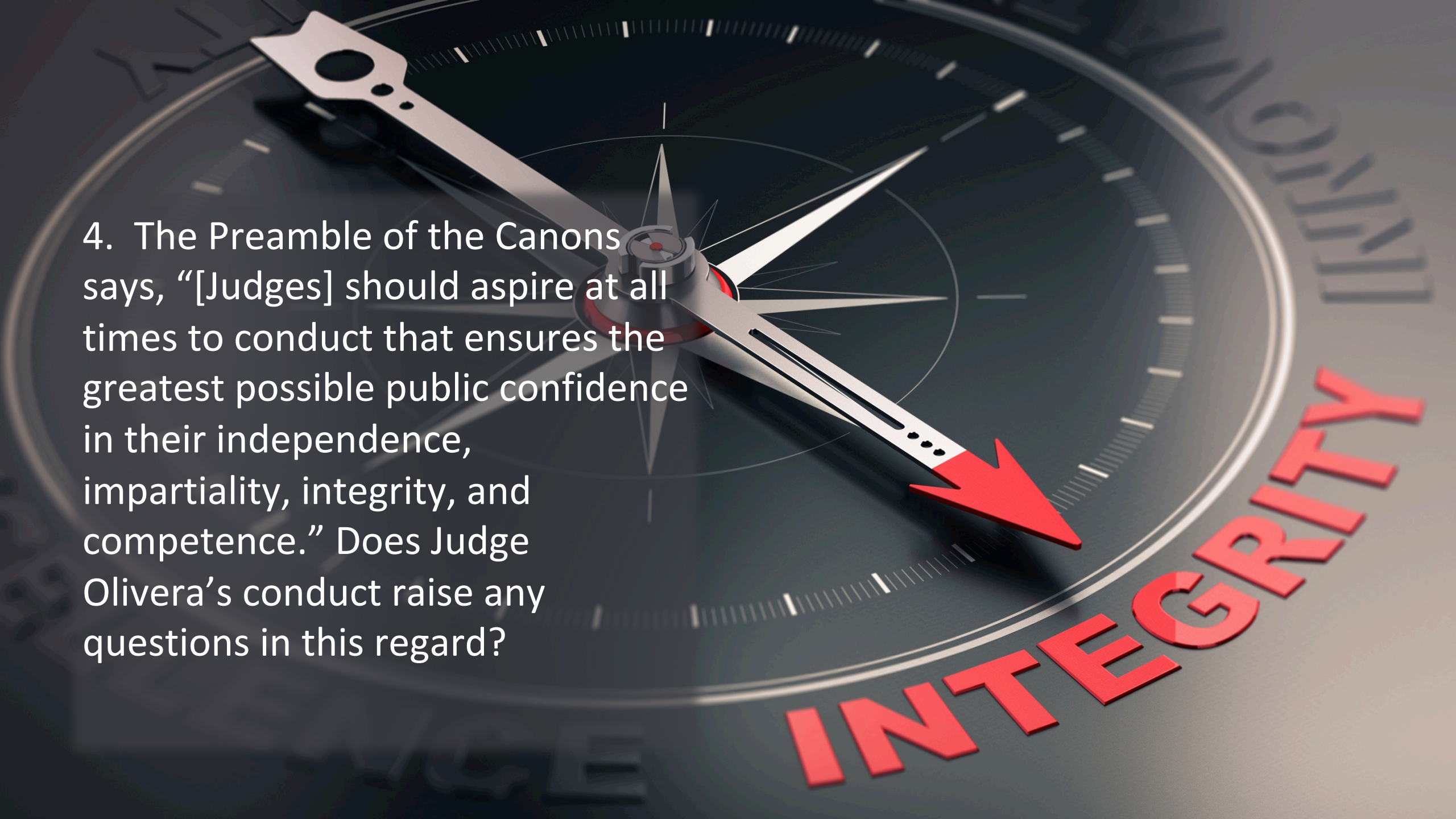
A photograph taken from the driver's perspective inside a car. The driver's head and shoulder are visible on the left. The steering wheel is in the foreground. Through the windshield, a calm lake and a line of trees are visible under a bright sky. The sun is shining from the upper right, creating a lens flare effect. A semi-transparent text box is overlaid on the right side of the image.

2. Was it appropriate to drive the participant to jail? The American Bar Association Model Code of Judicial Conduct requires a judge to “uphold and promote the, independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety” ([Canon 1](#)). Could someone, knowing the facts, question the independence and impartiality of the judge?

3. Canon 2, among other things, prohibits a judge from having *ex parte* communication. No defense attorney nor prosecutor was present at the jail. No court reporter was on hand to make a record. The conversation was personal according to Serna. What did they talk about? How might the judge use this information in the future? Was something said that would be of interest to the attorneys?



4. The Preamble of the Canons says, “[Judges] should aspire at all times to conduct that ensures the greatest possible public confidence in their independence, impartiality, integrity, and competence.” Does Judge Olivera’s conduct raise any questions in this regard?

A 3D compass with a red arrow pointing towards the word 'INTEGRITY' on a circular scale. The compass is centered on a dark, circular background with concentric circles and radial lines. The word 'INTEGRITY' is written in large, red, 3D letters along the bottom right arc of the compass. The red arrow is attached to the end of one of the compass needles and points directly at the word 'INTEGRITY'.

INTEGRITY

Can Judicial Compassion Be Unethical?

- <http://justicespeakersinstitute.com/20>





Vicarious Trauma

- Trauma affects not only the victims, witnesses, and litigants that appear in court, but also the judges and other court staff.
- Vicarious trauma is defined as “repeated or extreme exposure to details of the event(s).” Repeated exposure to pictures or videos only qualified as vicarious trauma if it was related to work. Anyone who regularly works or appears in courts may be exposed to this kind of repeated exposure to graphic photos, videos, or testimony about horrific events.



Vicarious Trauma

The symptoms are closely related to post-traumatic stress disorder (PTSD) so that judges, court personnel, or jurors who sit through child abuse, domestic violence, or other case types providing graphic details of someone else's traumatic experience are at risk, and their need for treatment options is being recognized by many state court systems.

"Trauma in State Courts," National Center for State Courts (2018)

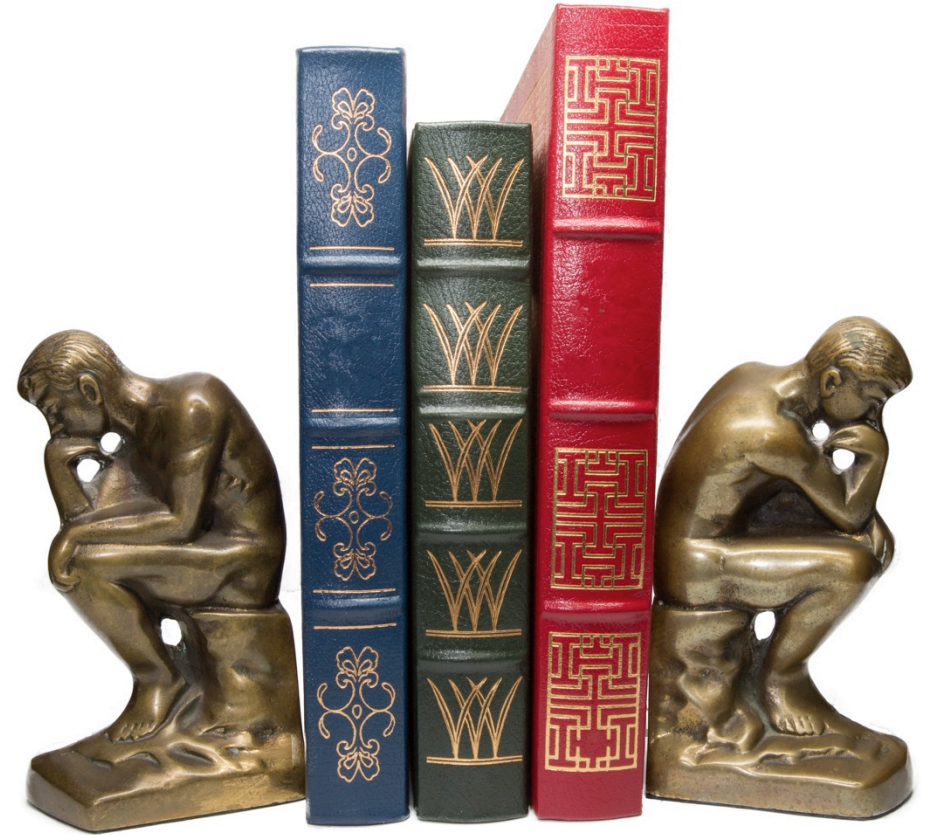


Justice Speake
SPEAKING, TEACHING & TRAUMA



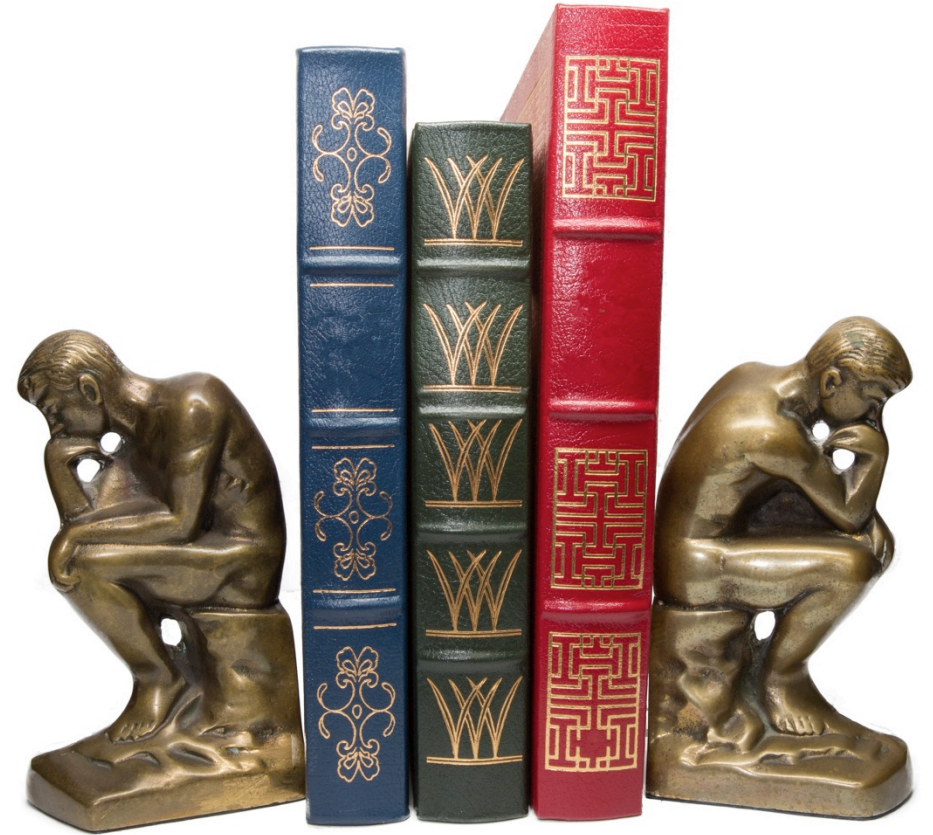
For More Information

- “Healing Invisible Wounds”
http://www.justicepolicy.org/images/upload/10-07_REP_HealingInvisibleWounds_JJ-PS.pdf
- Essential Components of Trauma-Informed Judicial Practice,” SAMHSA (2013)
- https://www.nasmhpd.org/sites/default/files/JudgesEssential_5%201%202013finaldraft.pdf
- SAMHSA’S National Center on Trauma-Informed Care (NCTIC)
- <http://www.nasmhpd.org/TA/nctic.aspx>



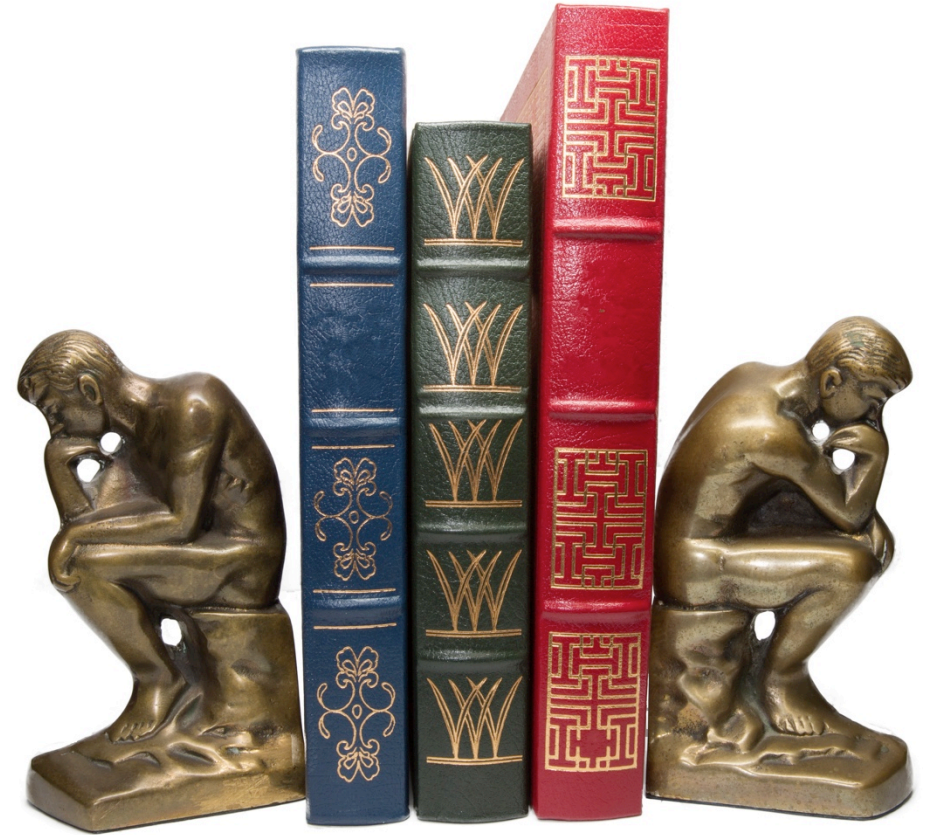
For More Information

- The National Child Traumatic Stress Network (NCTSN)
 - <https://www.nctsn.org/>
- GAINS Center for Behavioral Health and Justice Transformation
 - <https://www.samhsa.gov/gains-center>
- Ten Things Every Juvenile Court Judge Should Know About Trauma and Delinquency
 - www.ncjfcj.org.



For More Information

- Trauma Informed Care in Mental Health Courts
<https://csgjusticecenter.org/wp-content/uploads/2016/05/Trauma-Webinar.pdf>
- Family Court Tool Kit
<http://www.flcourts.org/resources-and-services/court-improvement/family-courts/judicial-toolkit/family-court-toolkit/>
- Blog post: “The Trauma-Informed Courtroom”
<http://justicespeakersinstitute.com/the-trauma-informed-courtroom/>



A TREATMENT IMPROVEMENT PROTOCOL

Trauma-Informed Care in Behavioral Health Services

TIP 57





Questions?

Thank You

Hon. Peggy Fulton Hora

Judge of the Superior Court of California (Ret.)

President, Justice Speakers Institute

For More Information: JudgeHora@JusticeSpeakersInstitute.com





Justice Speakers Institute

SPEAKING, TEACHING & TRAINING - WORLDWIDE