



Trauma-Informed Lawyering

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Objectives

Define

- Define trauma and how it impacts us as humans

Understand

- Understand how trauma affects our work as lawyers

Learn

- Learn how to be a trauma-informed lawyer

Identify

- Identify signs of secondary trauma and how to respond



Caveat about Pronouns

What Is Trauma?



What Is Trauma?

“Trauma is an emotional response to a terrible event like an accident, rape or natural disaster.

Immediately after the event, shock and denial are typical. Longer term reactions include unpredictable emotions, flashbacks, strained relationships and even physical symptoms like headaches or nausea.”

Source: <http://www.apa.org/topics/trauma/>

Types of Trauma

Acute

Car accident, natural disaster, mass shooting

Chronic

Domestic violence, war

Developmental

Childhood neglect

Historical

Genocide, slavery, forced relocation

Vicarious

Law enforcement, medical providers

Complex

Multiple, compounding traumatic experiences

"NORMAL" FUNCTIONING RESPONSE

First, I did _____

Then, I did _____

After that, I did _____

Lastly, I did _____

TRAUMA RESPONSE

I smelled _____

I felt _____

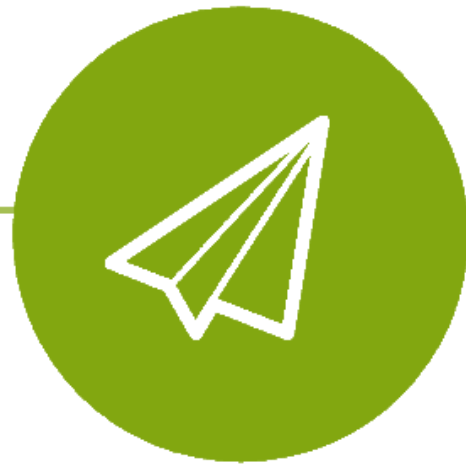
I heard _____

I tasted _____

Initial Trauma Responses



Fight



Flight



Freeze



Fawn



Ecological View of Trauma

Adverse Childhood Experiences

ABUSE



Physical



Emotional



Sexual

NEGLECT



Physical



Emotional

HOUSEHOLD DYSFUNCTION



Mental Illness



Incarcerated Relative



Mother treated violently

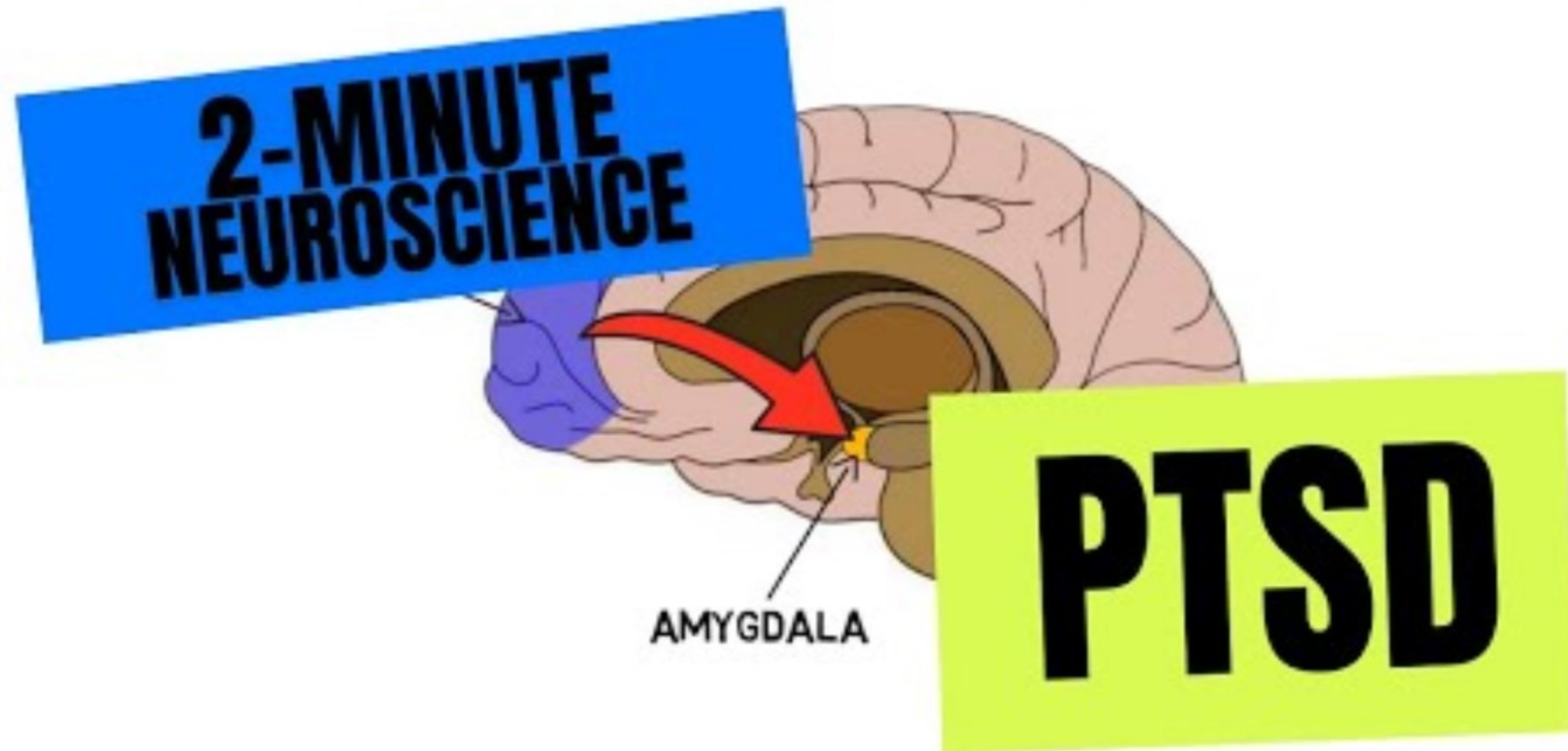


Substance Abuse

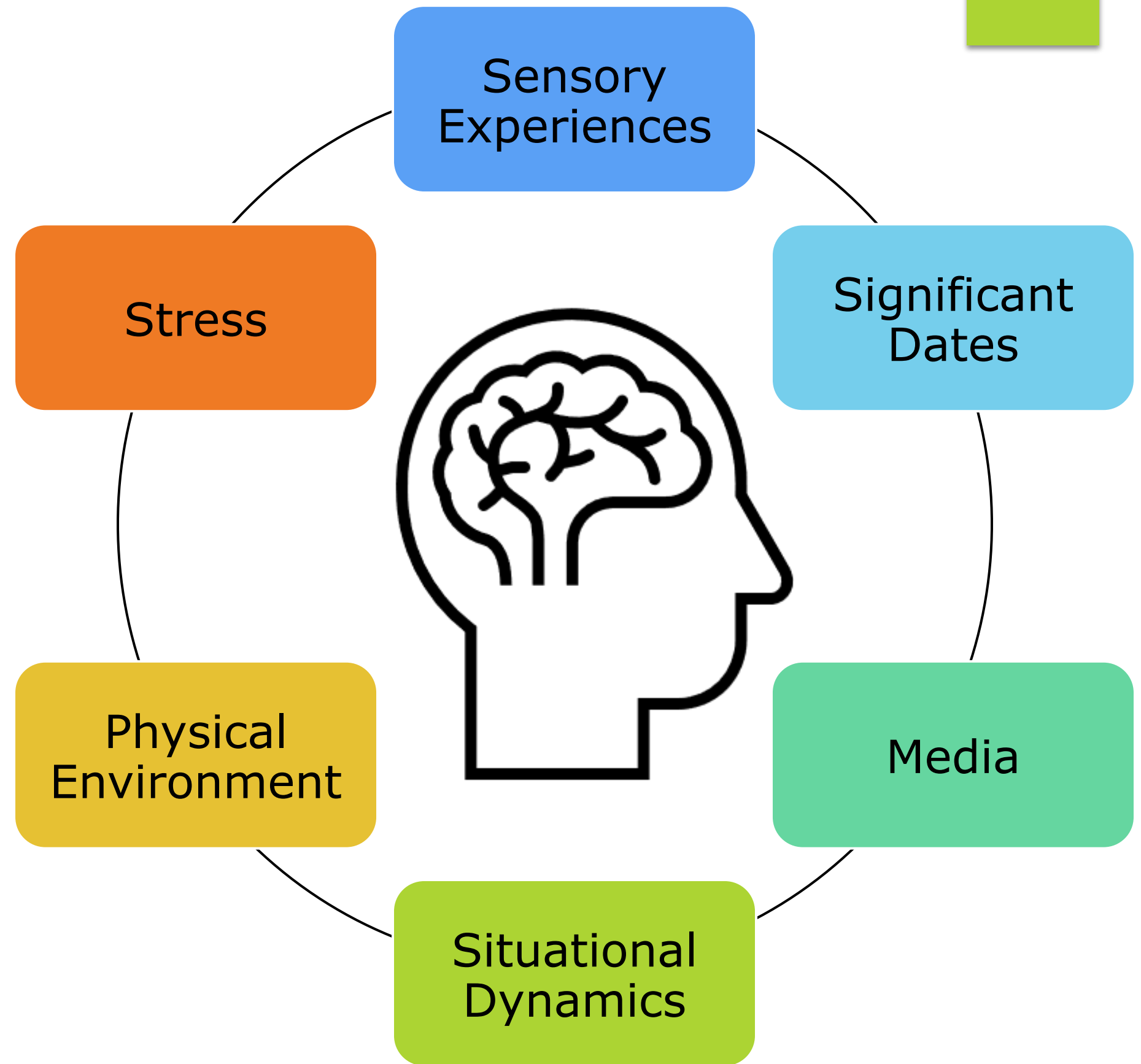


Divorce

NEUROCIRCUITRY OF PTSD



Triggers of Trauma Response



Reappearance of Trauma Response



Emotional Responses: fear, anxiety, anger, sadness, guilt, depression, numbness



Physical Responses: fatigue/exhaustion, nausea/dizziness, vomiting, headaches, excessive sweating, increased heart rate



Reliving Traumatic Event: replaying event, nightmares, flashbacks



Hyperactive Nervous System: constantly on guard, easily startled, difficulty sleeping



Avoidance Behaviors: triggers of thoughts or feelings, certain places and people



Dissociation: depersonalization, derealization



Shift in Perception: seeing world as dangerous, difficulty trusting, self-blame, critical self assessment

How Can Trauma Affect Clients?



Triggers in the Legal Process

Sensory Experiences

- Voices
- Yelling or aggressive tones

Significant Dates

- Birthdays/anniversaries
- Proximity to other events

Media

- Reviewing evidence (photos, messages, personal items)
- Hearing summary of the case in court
- Reading official statements or descriptions about the abuse

Situational Dynamics

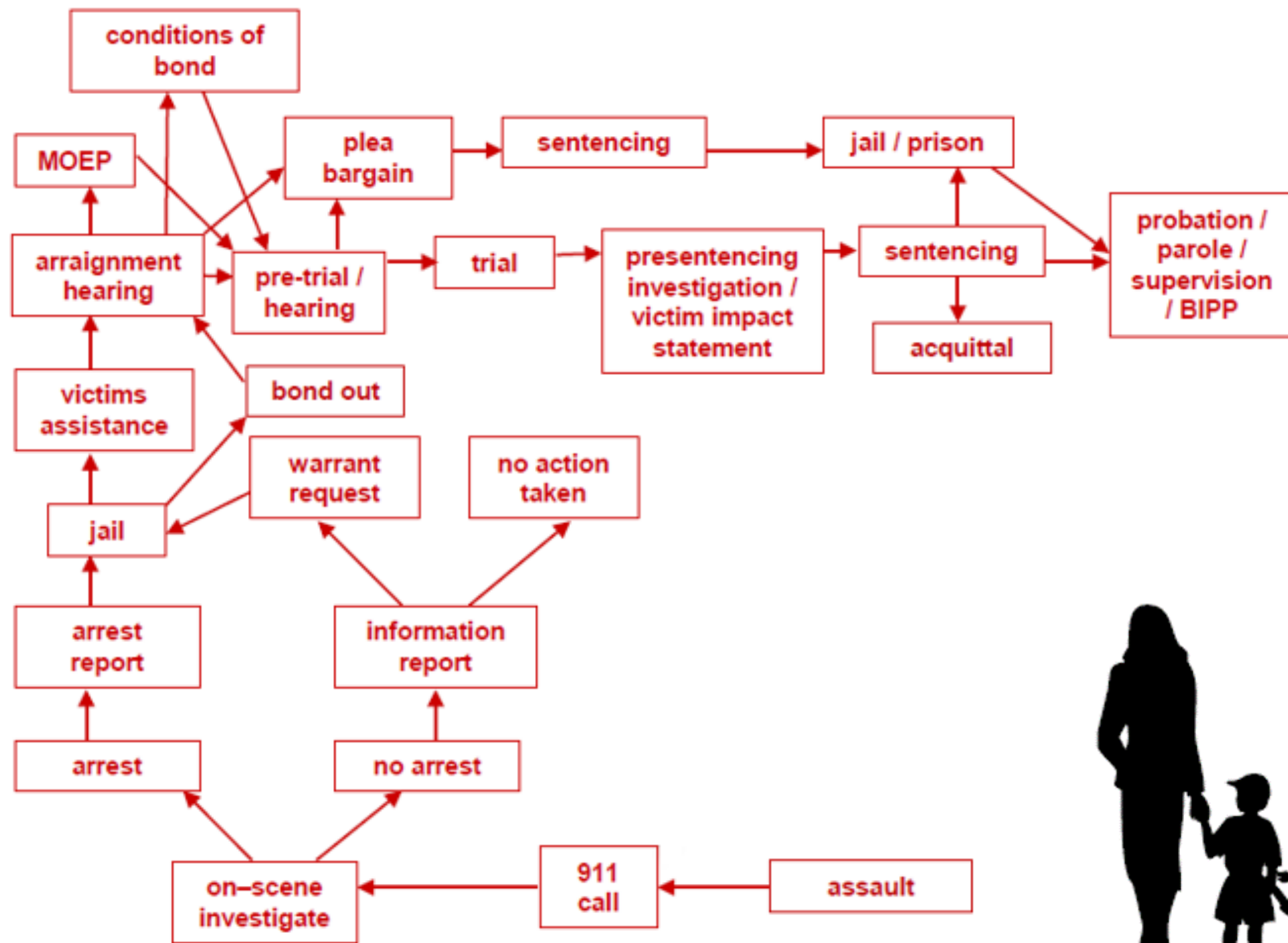
- Power dynamics in courtroom
- Questions about personal history, intimate details, things client may be embarrassed about
- Perceived doubt
- Fear of retaliation

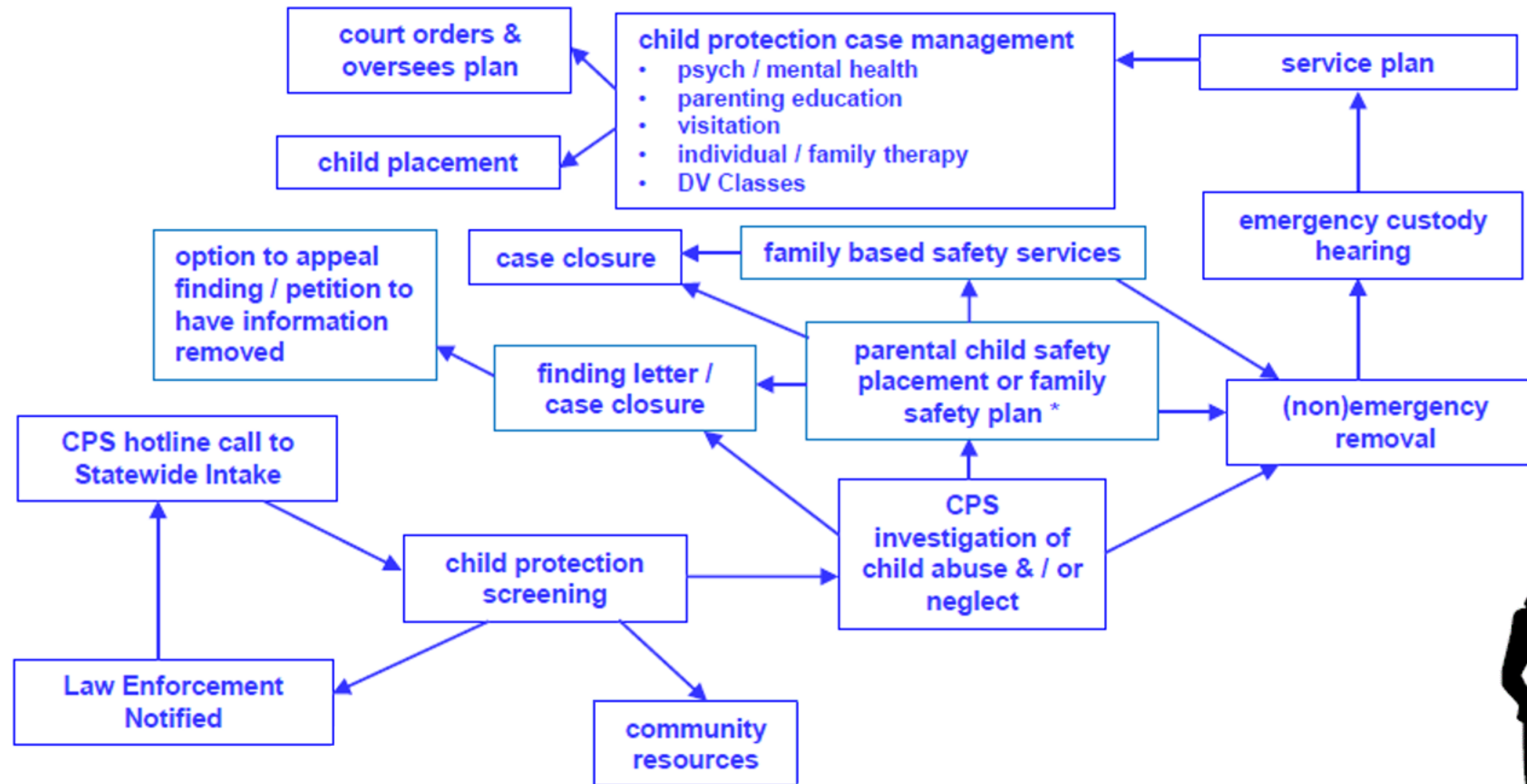
Physical Environment

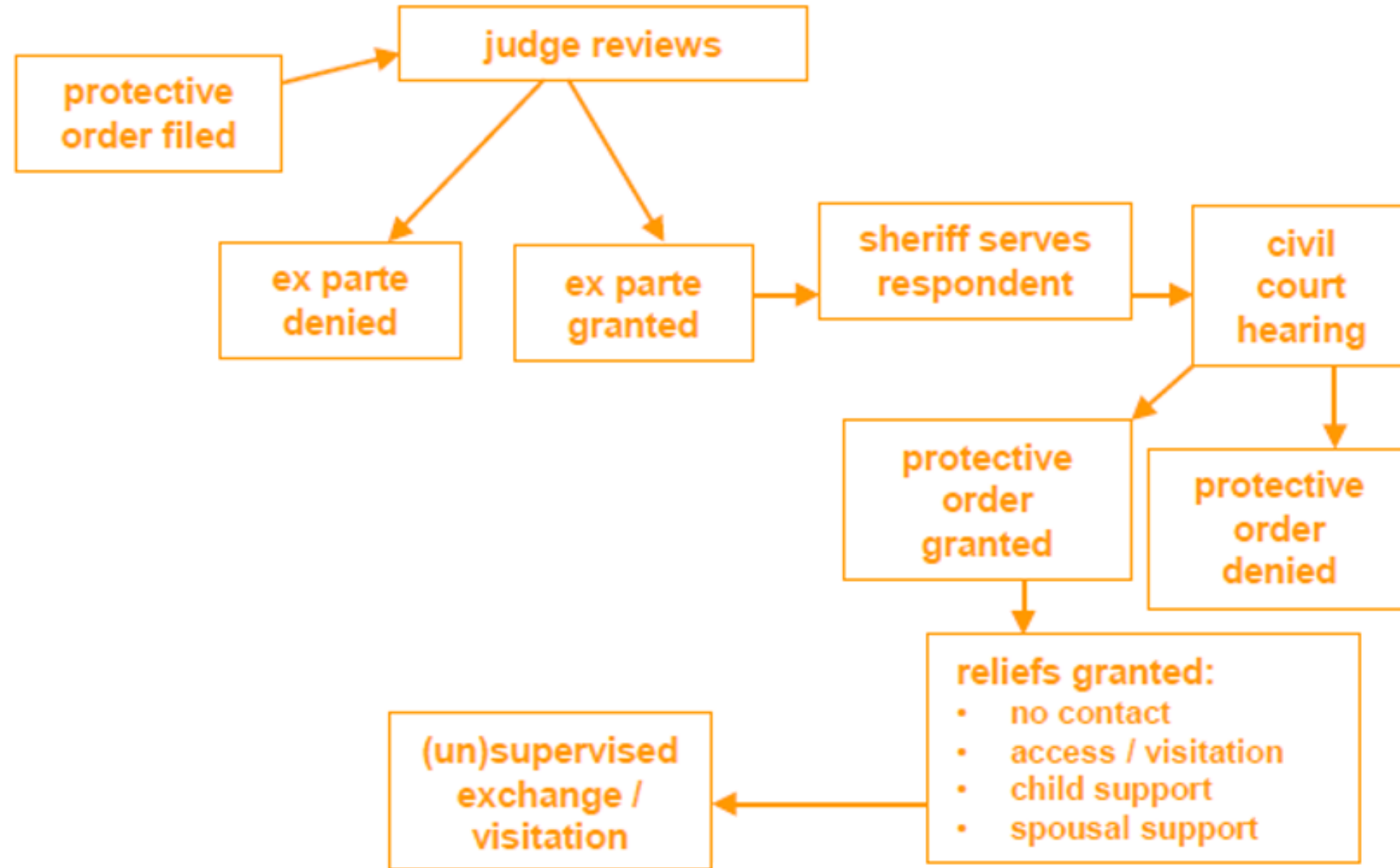
- Size or formality of the courtroom
- Waiting for your case to be called
- Close proximity to abuser or their supporters in courtroom.

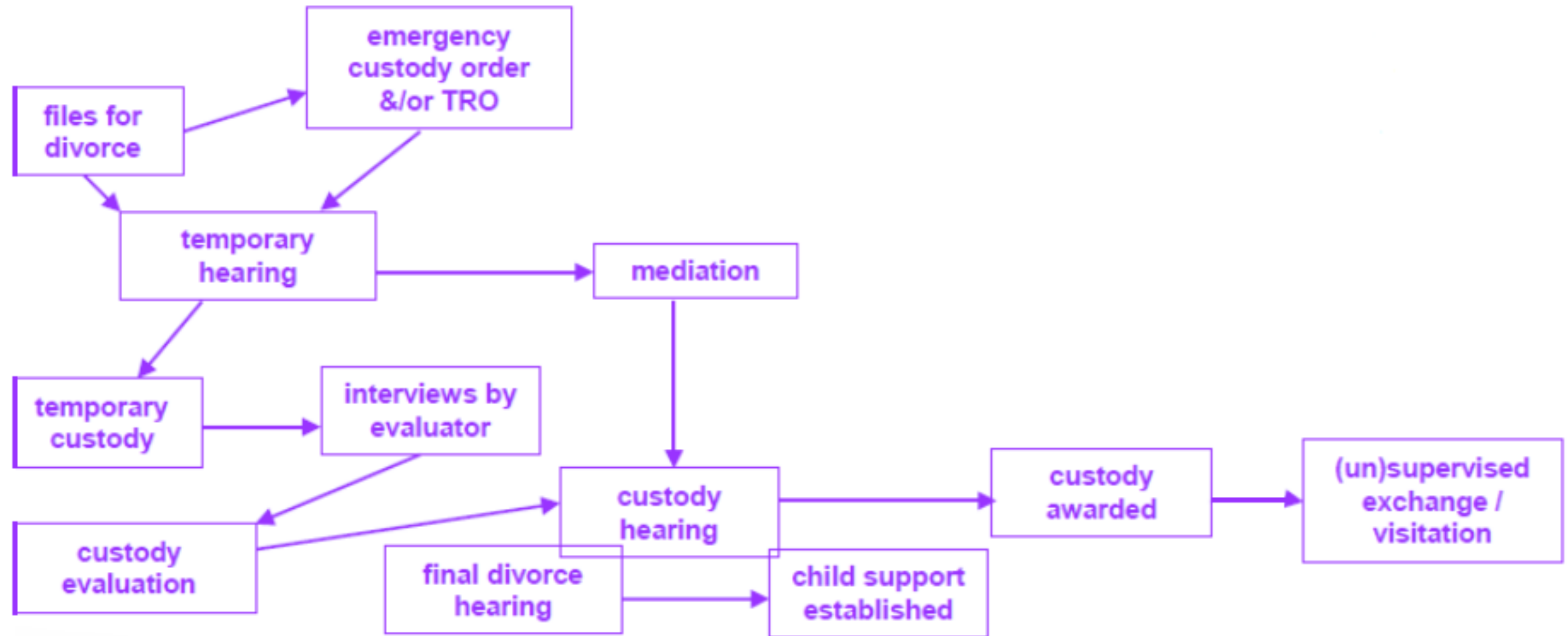
Stress

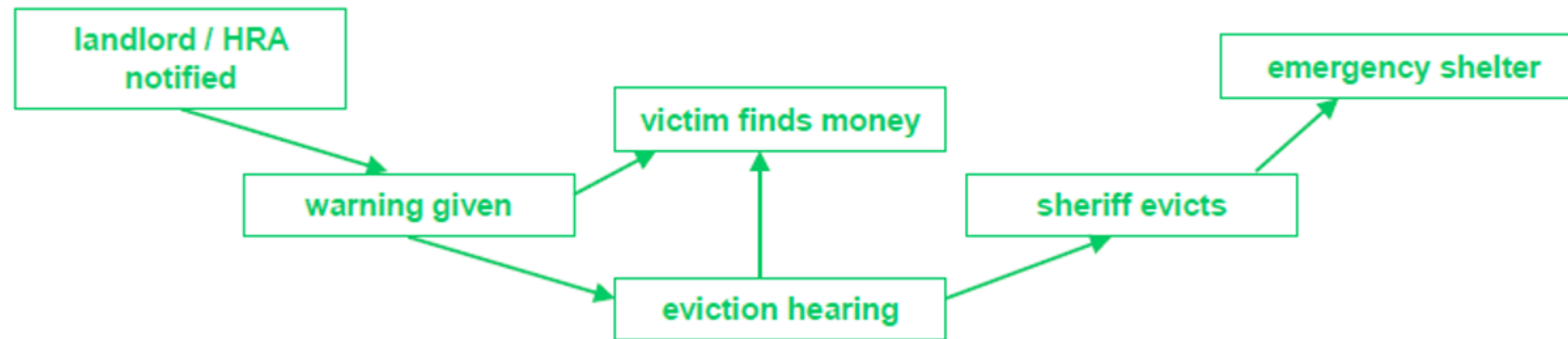
- Court is stressful!

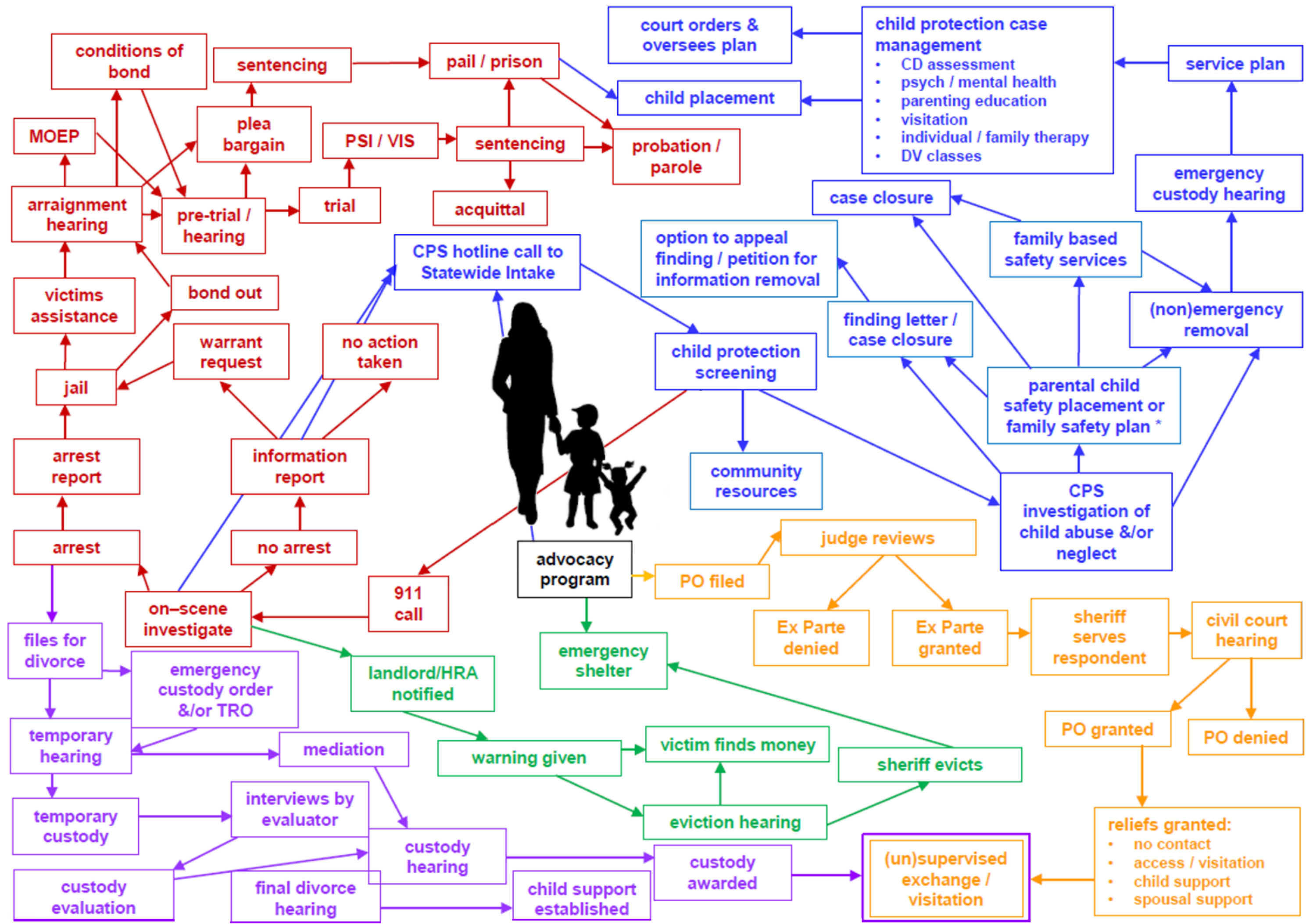












How Trauma Manifests in Clients



Emotional Responses: intense emotional reactions when discussing or recounting the abuse or hearing advice; expressing feelings of hopelessness, sadness, fear, guilt; numbness; intense fear or anxiety about anticipated triggers or negative outcomes; catastrophic thinking or expecting the worst-case scenario; increased anxiety around court dates and meetings; feelings of vulnerability or powerlessness



Physical Responses: too tired to complete tasks or make appointments; sweating, shaking or trembling; nausea, dizziness, vomiting, stomach issues



Reliving Traumatic Event: repeating descriptions of events



Hyperactive Nervous System: difficulty concentrating or making decisions; memory gaps or trouble remembering key details; inability to recall events chronologically; inconsistencies in memories; startled by touching or approaching



Avoidance Behaviors: hesitancy to engage with the legal process; avoiding meetings, phone calls, or tasks; reluctance or refusal to share details; substance abuse or self-medication; urges to agree/pay/settle to make this go away

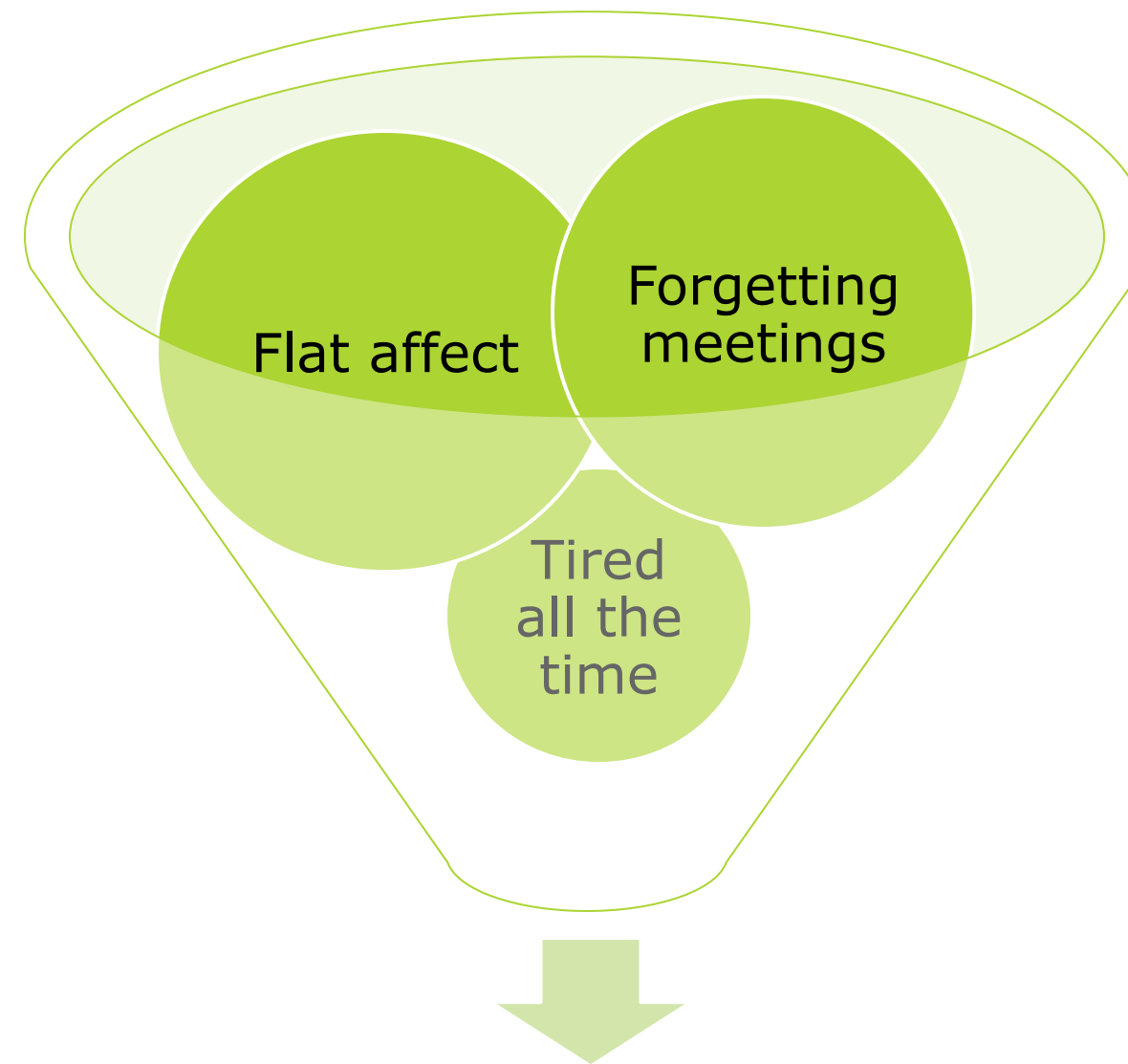


Dissociation: not listening to questions; forgetting what they were saying; “blanking out” or doesn’t appear to be “there” during conversations



Shift in Perception: blaming themselves for legal troubles; negative self-perception; distorted beliefs about you, judge and court staff; questioning your knowledge or abilities

Impact on Legal Process



What Is Trauma- Informed Lawyering?

When an attorney understands and considers the complex impact of trauma on their client and integrates this knowledge into their legal approach to provide sensitive and effective representation.

Attorneys use self-care strategies to mitigate and manage the effects of secondary trauma they might experience.



Build Trust



Empower Client



Be Transparent

Components of Trauma- Informed Lawyering

How to Build Trust



Address Basic Needs

Safe environment – “How are you?”
“Is now a good time to talk?”
Potential triggers
Privacy and confidentiality
Offer breaks, water, tissue,
accommodations, etc.



Be Easy to Talk to

Validate feelings
Check-ins
Don't rush – let client control the
narrative
Active listening
Patience and empathy
Let client interrupt



Be Trustworthy

Be honest
Be consistent and reliable
Under promise and over deliver
Take safety seriously
Apologize

MASLOW'S HIERARCHY OF NEEDS



Safety Considerations

Communication

Safe means for phone calls, voicemails, emails, physical mail

Confidentiality/Privacy

Any and all information that should be confidential in court records

Tech Safety

Change passwords and PINs: checking and savings accounts, credit card accounts, online banking access (checking/savings, credit cards, etc.), other online accounts (utilities, cable, medical, Netflix, etc.), shopping tools (PayPal, Apple/Google Pay, Amazon, etc.), communication tools (phone, email, social media, What's App, etc.), cloud storage (Google Drive, iCloud, DropBox, etc.)

Phones & Devices: location tracking, data tracking, geolocation tags, syncing with cloud storage, joint account billing

Browser settings: clear history, remove stored credit cards and info

Online Personal Info: client's name (pictures, addresses, phone numbers), social media

Mental Health

Emotional triggers, support team, signal for breaks

Physical Safety

Will abuser be in court? If so, when and where to meet, safe transportation, courthouse security officials, seating, coordination with courthouse staff, safety signal. Any concerns about retaliation afterward? Does your client need a safety plan?

How to Empower Client



Remember this is client's case
Ensure client understands the process
Offer options
Help client identify their goals for justice

Remember this is client's case

Ensure client understands the process

Offer options

Help client identify their goals for justice

THE GOAL IS TO EMPOWER CLIENT TO MAKE AN INFORMED DECISION

How to Be Transparent



Trauma-Informed Lawyering

Interviewing Client

- ▶ Don't assume anything
- ▶ Don't make this about you
- ▶ Review any available information before first interview/phone call
- ▶ Think about power dynamics, safety, and empowerment when scheduling
- ▶ Plan interview questions in advance
- ▶ Explain your role, confidentiality, privilege, and the limits of privilege/confidentiality
- ▶ Set out your goals and ask client about their goals
- ▶ Focus on listening – ask to take notes or take notes afterward
- ▶ Clarify why you are asking specific questions
- ▶ Use plain language and not legalese
- ▶ Watch client's reactions to see if they need a break
- ▶ Apologize!
- ▶ DON'T TOUCH!

Trauma-Informed Lawyering

Interviewing Client

What to Say

"I get that this is uncomfortable"
"I realize that you have been asked a ton of questions"
"I recognize that this can be uncomfortable"
"I am here to support you"
"I will not judge you"
"I'm sorry that happened"
"That sounds like it was terrifying"
"That would be so hard for anyone"
"That wasn't your fault"
"Thank you for telling me that"
"I'm grateful you trusted me enough to tell me"
"I'm not sure, but I will find out"

What NOT to say

"I know..."
"I understand..."
"Get over it"
"Don't say that"
"I guarantee..."
"I promise...."
"This is part of God's plan"
"Rape"
"Force"

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Preparing for Court

Review what client needs to know

The Case

- All court filings
- Any proposed exhibits
- Interpreter

Testimony

- Just the truth
- DON'T GUESS!!! "I don't know" and "I don't remember" are valid answers.
- Repeat or rephrase
- Judge may interrupt or have questions

Court "Appropriate"

- Arrival time
- Dress code
- Childcare

Explain court environment

- Location/directions
- Parking
- Role and location of everyone
- Waiting
- Step-by-step process

Provide emotional support and safety plan

- Support team
- Breaks
- Grounding techniques
- Bailiff & security staff

Trauma-Lawyering- Informed in Practice

After Court

Debrief

- Explain what happened
- Review next steps for both you and client
- Ask about any questions, confusions, or concerns

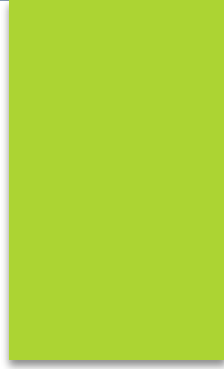
Emotional Check-In

- Ask “how are you doing?”
- Encourage client to engage in self care
- Refer client to resources and/or advocate as necessary

Safety Considerations

- Transportation
- Exiting the courthouse
- Coordinating with courthouse security

Boundaries and Personal Comfort



What Is Vicarious Trauma?



What Is Vicarious or Secondary Trauma?

“[T]he natural consequent behaviors and emotions that often result from knowing about a traumatizing event experienced by another and the stress resulting from helping, or wanting to help, a traumatized or suffering person. Its symptoms can mimic those of posttraumatic stress disorder.”

Source: <https://ovc.ojp.gov/program/vtt/glossary-terms>

Effects of Secondary Trauma

Positive

- Vicarious resilience
- Compassion satisfaction

Neutral

- Effectively managed response

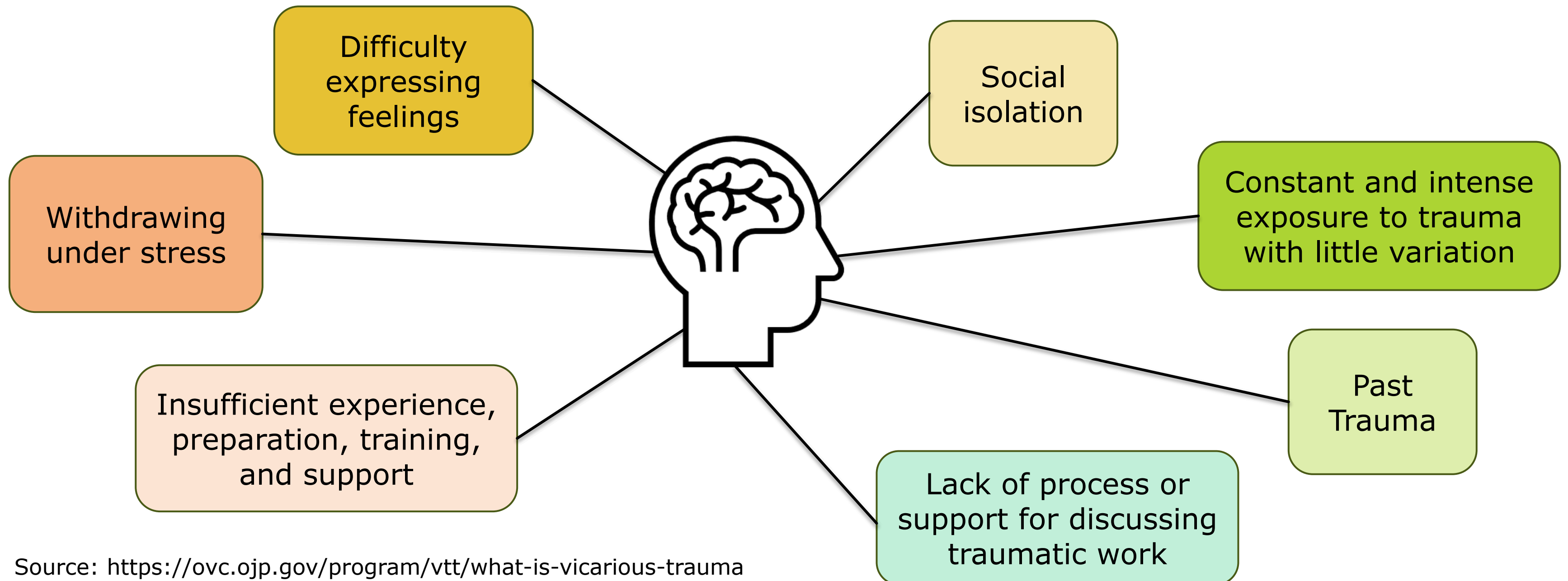
Negative

- Compassion fatigue
- Burnout
- Same effects as direct trauma

Negative Responses to Secondary Trauma

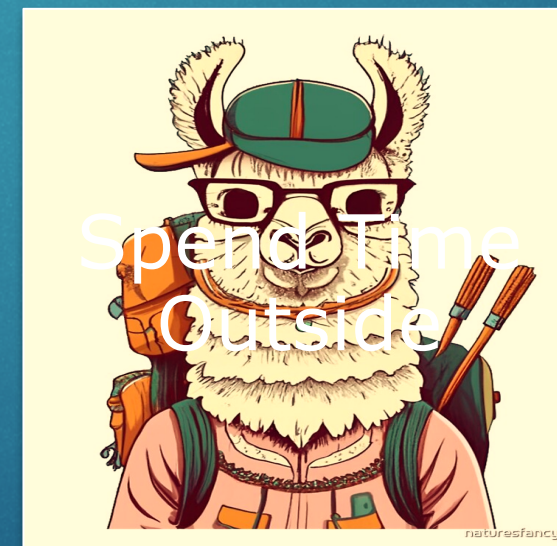
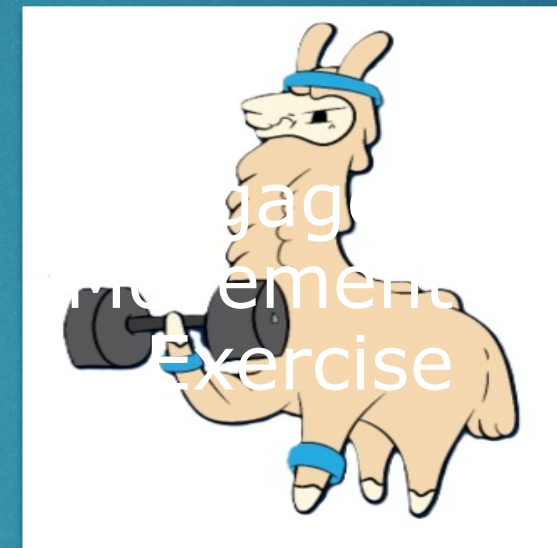
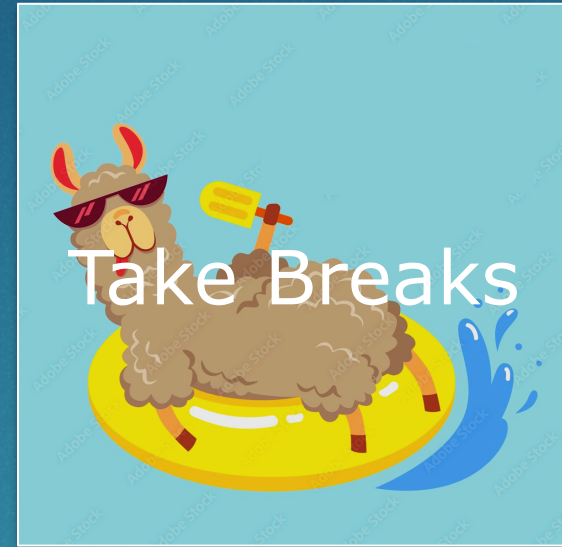
- ▶ Difficulty managing emotions
- ▶ Feeling emotionally numb or shut down
- ▶ Fatigue, sleepiness, or difficulty sleeping
- ▶ Physical aches and pains
- ▶ Decreased resistance to illness
- ▶ Being easily distracted
- ▶ Loss of a sense of meaning in life
- ▶ Feeling hopeless about the future
- ▶ Withdrawing from friends and family
- ▶ Avoiding intimacy
- ▶ Worrying excessively about potential dangers to yourself or loved ones
- ▶ Increased irritability, aggressive or explosive behavior, or violent outbursts
- ▶ Destructive coping or addictive behaviors
- ▶ Lack of or decreased participation in activities that used to be enjoyable
- ▶ Avoiding work and interactions with clients or colleagues

Vulnerabilities to Negative Effects



Source: <https://ovc.ojp.gov/program/vtt/what-is-vicarious-trauma>

Preventing and Healing Secondary Trauma



Resources

Trauma-Informed Lawyering

https://www.law.nyu.edu/sites/default/files/upload_documents/Katz%20-%20Halder%20Pedagogy%20of%20Trauma-Informed%20Lawyering.pdf

Trauma Responses

<https://www.psychologytoday.com/us/blog/think-act-be/201609/21-common-reactions-trauma>

Adverse Childhood Experiences

<https://www.cdc.gov/violenceprevention/aces/index.html>

Neurobiology of Trauma

<https://www.ojp.gov/ncjrs/virtual-library/abstracts/neurobiology-sexual-assault-implications-first-responders-law>

<https://pubmed.ncbi.nlm.nih.gov/32840220/>

The Body Keeps the Score by Bessel van der Kolk, M.D.

Mental Health

Suicide Hotline 988

Safety Planning

<https://www.thehotline.org/what-is-a-safety-plan/>

<https://www.rainn.org/articles/safety-planning>

Vicarious/Secondary Trauma

<https://www.aafp.org/pubs/afp/issues/2021/0501/p570.html>

<https://ovc.ojp.gov/program/vtt/introduction>

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8925925/>



Thank you!

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