

**Preventing Revictimization in Sexual Assault Investigations:
Personal Security and Trauma-Informed Case Management¹**

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¹ The interview was conducted on July 25, 2022, in Winchester, Virginia, during the Trauma-Responsive Investigations and Sexual Assault Victim Interviews (TRI-SAVI) special training.

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Abstract

How we treat victims determines the amount of information we gain from a victim interview. It is also crucial for the security of victims, and for preventing revictimization in a criminal procedure. Nancy Oglesby, Esq., a career prosecutor, and Director of Justice 3D, was interviewed to highlight the necessity of trauma-informed, victim-focused interview practices. Oglesby has handled thousands of domestic violence, child abuse, elder abuse, and sexual violence cases with a trauma-informed, victim-centered criminal justice approach. The interview raises awareness of law enforcement, prosecution, victims' advocacy professionals, and college students aspiring to continue in the field of special victims.

Keywords: trauma, victim, security, prosecution, investigation, police, sexual violence

Introduction

Protecting victims means better security for society. It is a chain reaction and has immediate and indirect benefits. As an immediate benefit, if victims feel secure, they will provide more details, which brings about better chances of finding evidence proving the offense beyond reasonable doubt and sanctioning the offender (Lonsway & Archambault, 2021; Maddox et al., 2011; Patterson, 2011). If the crime is proven and the offender is sanctioned, society will be better protected from crimes. However, protection of the victim has distal benefits as well. Victims who are satisfied with how the police handle the case will be less likely to recant and more likely to stay cooperative throughout the process (Moore & Baker, 2018). Hence, how we treat the victim is crucial in many ways. How can victims feel safer and more protected in a criminal process? Victims of sexual assault have already gone through traumatic experiences by the time of the report. First, they are traumatized by the assault (Chivers-Wilson, 2006; Littleton et al., 2006). Second, they might have experienced more trauma by not getting adequate help from family, friends, and community (Boyd, 2011; Daane, 2005); not being believed, denying trauma, blaming the victim, and exonerating the perpetrator (Heath et al., 2013; Kilpatrick et al., 1992; Parti et al., 2016; Wolitzky-Taylor et al., 2011; Craig, 2018). Criminal procedures can also pose risks of revictimization by asking the victim to reiterate traumatic experiences and professionals not showing support (Maier, 2008; Haskell & Randall, 2019). Providing better personal security to victims and protection to society would be essential, yet, most law enforcement is not taught how to conduct a trauma-informed, victim-focused sexual assault interview. This interview was conducted to raise awareness of the importance of victim focused trauma informed interview techniques in criminal investigations.

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About the interviewee: Nancy Oglesby, Esq.

Nancy Oglesby, Esq. who earned a bachelor's degree in political science at Furman University (1992), a JD at TC Williams School of Law, University of Richmond (1996), and was admitted to the Virginia State Bar right after law school. As a career prosecutor for over 20 years, Oglesby has handled thousands of domestic violence, child abuse, elder abuse, and sexual assault cases. In addition, as the Director of Justice 3D, a firm providing training to professionals to fight sex crimes and domestic violence and on how to work with victims who experience trauma, she has trained allied professionals nationwide, including prosecutors, law enforcement officers, advocates, medical professionals, and forensic interviewers. She was appointed to state committees and task forces in these areas by four Virginia Governors. She also co-authored Virginia's Model Law Enforcement Protocol in the areas of Sexual Assault, Domestic Violence, Stalking, and Child Homicide Investigation. Oglesby has been recognized as the Virginia S. Duvall Distinguished Juvenile and Domestic Court Prosecutor, the YWCA Outstanding Woman of the Year in the area of Law and Government, and the Lecturer of Merit Award in honor of her leadership and commitment to the training of Virginia Prosecutors.

Career

Q1: What made you commit to trauma-informed investigations of sexual offenses and domestic violence? What motivated you to enter the training business?

A1: I began working in the area when I was in college. I went to Furman University, and while doing-community service hours in college, I worked at the Greenville Rape Crisis Center. That was my first exposure to working with victims. Then, when I was in law school, I volunteered with the YWCA leading a domestic violence support group. These formative experiences drove my

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passion and perspective to be victim-centered, which helps balance out some of the necessary analytical parts of being a prosecutor.

Q2: Please explain the term "special victim" to readers who are not familiar.

A2: It might be familiar to many from the Law and Order -Special Victims Unit, where it became a familiar phrase. It is a term that we use in our professional field to describe victims of sexual assault, intimate partner violence, crimes against children, and other criminal acts targeted at vulnerable populations.

Q3: What do you believe is your career's most important or outstanding achievement?

A2: That is a difficult question. I worked on many personally satisfying cases because of successful outcomes in court. I think, though, looking at my career-in totality, co-founding and building Justice 3D has allowed me to reach many more people than I could ever work on the frontline in the courtroom. Although I loved my time in the courtroom, the ripple effect of training is exponential, in that if we can train hundreds of professionals to improve their response to victims and do their jobs better, they will then affect thousands. In addition, when we consult in the creation of policies and protocols, we provide guidance for departmental standards that set the tone and expectations of entire agencies.

About Justice 3D

Q1: Could you tell us briefly about Justice 3D and its functions? What service does it provide, and where do you see its necessity?

A1: The name itself speaks to three dimensions that make up any special victim case: investigation, prosecution, and advocacy. Justice 3D was formed with my partner, Mike Milnor, a retired Police Chief of Altavista, Virginia, with over 30 years of law enforcement experience. Our idea was to develop a training agency to provide advanced training to frontline professionals responding to

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violent crimes. We wanted to develop trainings that are taught from a multidisciplinary perspective to ensure criminal justice agencies work together in their efforts, ensuring the most efficient use of resources and providing the best response possible for victims. Historically, criminal justice training would be taught by one discipline. For example, a prosecutor would teach prosecutors, or a law enforcement officer would teach law enforcement. To fill this gap, we envisioned a company where we could provide the missing multidisciplinary training and thereby model what we hope the frontline professionals will do: work together instead of staying in their silos. We now have a team of trainers from different backgrounds and disciplines to provide these trainings.

Teamwork in focus

Q1: Would you say that you decided to purposefully put together a training blended for different types of professions, for example, for law enforcement officers, investigators, first responders, and victim services?

A1: Yes. That is precisely what we hoped. We hoped we would also see teams attend our training if we taught as a team. And, even if folks do not come as a team, they will still see that there is a more comprehensive and efficient way to handle a case. Historically, law enforcement would do the investigation and hand the file to the prosecution, who then focus on their part, and maybe an advocate would become involved to work with the victim at that point. This often would result in multiple interviews of a victim and, many times, duplication of other efforts. Our model encourages communication between agencies throughout the entire process and, when possible, one victim interview that all disciplines can access. On the one hand, we have to be evidence and investigation-focused -- we want the case to be as strong as possible. On the other hand, we also want to recognize that we are dealing with someone who has experienced a traumatic event and needs to be treated appropriately. We must find the person who committed the crime and hold

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them accountable, but we must also spare the victim from additional harm in the process. We do that better when we work as a team.

Q2: What other services does Justice 3D provide to the profession?

A2: We have a hybrid approach to training. On the one hand, we offer specific trainings that we put on repeatedly in different parts of the country. On the other hand, we work with agencies and communities to create specialized trainings that are specific to their needs. We also do consulting work. This could involve being an expert witness in a trial or writing policies and protocols for individual agencies, local communities, or even statewide. Finally, we do keynote presentations at conferences that inspire and motivate those doing the work on the frontlines.

Trauma-informed case management

Q1: Are there any legal or practice-related changes that impacted the changes in your career path?

A1: Absolutely. The most significant impact on my career, especially in adult sexual assault cases, was developing an understanding of trauma and how the brain often responds to a traumatic situation. Frequently, it is talked about as the neurobiology of trauma. Unfortunately, this is not something I was taught until several years into my career. However, it entirely changed how I approached cases once I understood how it works. I also observed similar improvements in child abuse cases. When I started, law enforcement did investigative interviews with child victims. Today, through the child advocacy center model, children who are victims are taken to a specialized agency that provides a place to do the investigative interview by a forensic interviewer in a child-friendly room. The advocacy agency also has multiple resources available for the family and often therapy options, if needed, for the child. I have grown over the course of my career in the realization that the multidisciplinary team approach is the best way to do our job. Every step we take towards improving the overall systemic approach, the easier prosecutor's jobs are in the

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courtroom. The better victims are treated, the stronger our cases will be. In special victims' cases, the victims' interviews and participation are crucial. Still, if not respected and treated appropriately, the victim will not stay engaged with the criminal justice system, and as a result, offenders will not be held accountable.

Q2: When would you say the shift to trauma-informed investigation happened?

A2: We have come a long way since I started in 1997, and how we approach cases now is dramatically different. With domestic violence, significant reform came on the heels of the Nicole Brown Simpson murder case, which ignited a dramatic influx of money to local communities to improve the criminal justice system's response to domestic violence. My first job was as a domestic violence prosecutor, funded by the Violence Against Women Act. Sexual assault investigation/prosecution reform based on the understanding of trauma is more recent. My first exposure to trauma-informed interviewing and the neurobiology of trauma was from Russell W. Strand, who developed the Forensic Experiential Trauma Interview (FETI) while serving as the Chief of the Behavioral Sciences Education & Training Division at the United States Army Military Police School in Fort Leonard Wood, Missouri. It recognizes that the brain may encode memories differently during a traumatic situation; therefore, interviewing someone in a way that enhances that memory recall looks different from traditional interview techniques.

Training based on a multidisciplinary approach

Q1: What philosophy guides you in designing training law officers and prosecutors?

A1: We have some foundational principles that we try to incorporate in all of the trainings we do. As I said, we teach every training through a multidisciplinary perspective. Unfortunately, bringing three or four trainers to every training is cost prohibitive. Nevertheless, at a minimum, we have both law enforcement and prosecutor perspectives. Additionally, we will have an advocate and a

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forensic nurse as trainers when we can. We aren't always able to do that, but we will always try to bring their perspective into the conversation. Also, everything we teach is through that trauma-informed lens. For example, when we do a training on sexual assault investigation skills, we instruct on the understanding of trauma. When training on child homicide investigation, we are still bringing in information on how trauma impacts the witnesses and their interviews. The impact of trauma has many nuances that need to be discussed and supported by research to stay objective, credible, accurate, and current. Especially when we start talking about science, we make sure we consult with researchers to give us the most updated information. As criminal justice trainers, we live in a world of the courtroom, and proof beyond a reasonable doubt -- where everything has to be exact and credible. We also, of course, share our years of anecdotal experiences based on our quantity of cases, but we are always careful to clarify when we are speaking from personal experience vs. research.

Theory and practice forged together

Q1: Could you share some examples of how the police/prosecution utilizes the material you teach at the trainings?

A1: For example, this week, at a training for law enforcement, prosecutors, and victim advocates, we discussed conducting a trauma-informed interview. We discussed the types of questions that are helpful and offered a way to interview victims in a specific manner with specific vocabulary. Hopefully, they will apply it the next time they do these interviews, and we have provided them with concrete skills they can turn around and start using immediately. Naturally, not everything we teach will always be immediately applicable, but hopefully, we plant seeds. Thus, when something does come up, it triggers a memory, and then they can again seek information about what may be necessary for the case they have in front of them. And we at Justice 3D are always

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available as a resource. Students can send us an email, saying, "Hey, this is my case, what do you think?" Having done the cases and having been on the front line for so long, we are consciously thinking about how we can make each training have practical application.

The difficulty of proving a crime without physical evidence

Q1: Sex crimes, especially sexual assault committed by an intimate partner and sexual abuse against children, are hard to prove because objective evidence and witness testimony are rarely provided. Even in cases with a victim's testimony, proving the crime can be pretty hard. According to modern laws, including some state laws in the US, only the lack of consent is required for sexual crimes (it is, however, not the case in Virginia, which still requires force or threat of force for sexual assault). That is a significant difference compared to when the physical defense was required to establish the indictment. In your opinion, what makes proving cases hard nowadays?

A1: Under the law, one person's word can be sufficient to prove our case. However, in Virginia, our laws still require that the evidence show that the sexual act was accomplished through the use of force or threat of force, or intimidation. It's not intimidation, like, "Hey, I'm not going to take you to dinner if you don't do this," or something like that. It still has to be intimidation based on fear of bodily harm. Other states have different elements of proof. For example, several states have laws requiring a showing of affirmative consent rather than focusing on the use of force. Regardless of the specific laws, to prove these cases, one must be skilled as law enforcement in conducting a thorough investigation and as a prosecutor in understanding how to present the evidence to a jury or a judge. These are very complex cases, and without proper training, cases are not successfully investigated/prosecuted. The more we as professionals understand trauma, the more we become comfortable with it and the more we apply it to our work. We will begin to make investigative decisions, conduct victim interviews, and develop our trial strategy all through a

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trauma-informed lens which will, in turn, strengthen our cases. Prosecutors must educate jurors and judges as well in the courtroom, both through the evidence and the use of experts. It is not an offensive thing to learn about trauma and the neurobiology of trauma. However, I dare say even most people have never heard of how trauma affects the brain. But once you teach them, it's like a lightbulb comes on, and certain victim behaviors that have been challenging for people to understand begin to make sense. There are, of course, other things at play in fact-finders' views of these cases that we have to deal with like rape myths, rape bias, and rape culture. But the foundational game changer is understanding trauma.

Audience and level of interest in taking the training

Q2: You mentioned that many criminal justice professionals are attending your trainings. What motivates this particular audience to widen their knowledge?

A2: In any given audience, we may have students very interested in our class and students a supervisor has told them to attend (and the two are not necessarily mutually exclusive). Some people may have handled a case inappropriately and have now been sent to our class. They may come in with a defensive wall. Others may have just been assigned to a new unit and need to be trained. Even though our basic material is the same for each class, we look at each class roster and tailor the training to them. If you sit in the same class next week with a different audience, it will be very similar, but it will not be identical. We will spend more time on certain things. We may get resistance. Hence, we try to be very flexible with the audience with what kind of interactions we are having. I think it is always a mixture of interests, and we will never fully know why each person is in the class.

How can practitioners utilize the training?

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Q1: Are you suggesting that every professional, not only law enforcement and prosecutors, should be trained?

A1: Clearly, you can't educate jurors in the courtroom on trauma if your prosecutor isn't educated. And you can't have the evidence to get it into the courtroom if your law enforcement is not educated. Thus, we are trying to ensure everybody in the criminal justice process gets it. The case may never be taken to court if the prosecutor does not understand trauma. Similarly, if the investigator does not understand trauma, they may respond in a way that causes the victim to disengage from the investigation. Unfortunately, it only takes one professional interacting in an uninformed and inappropriate way with a victim to derailing the case. But, when everybody does understand trauma, it's incredible how smoother the entire process goes, how better a victim is treated, and, therefore, how better the outcomes we have. Having been a prosecutor who hadn't been educated in the neurobiology of trauma and then becoming a prosecutor who was, I know that there were many adult sexual assault cases I could have handled better. For a long time, we have failed to teach law enforcement and prosecutors the understanding of the impact of trauma, which contributed to some terrible case outcomes. We still have a lot of work to do. The good news is many departments are making trauma-informed training mandatory, and many young professionals are learning this at the beginning of their careers. In a few years, I believe we will see the outcomes significantly change for the better.

Researcher-practitioner collaboration

Q1: Do you think the various theories have played a part in your practice? What do you think about researcher-practitioner collaboration?

A1: Research has, indeed, played a significant part in the understanding of the neurobiology of trauma. Likewise, it is through research that we have a foundation for expert testimony on trauma

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in the courtroom. Understanding the neurobiology of trauma is far more than just an opinion that being trauma-informed is a kinder way to talk to people. Instead, trauma-informed interviewing is a way to conduct a victim interview that will help elicit the most accurate information possible. Also, there are research studies on why prosecutors prosecute certain cases and do not prosecute certain cases, and this research can expose patterns of biases. For example, are prosecutors not taking certain types of cases to trial because of their personal biases? Research is essential in illustrating what is prevalent in practice, and then it is up to us to figure out why the pattern occurs and if there is a better way to do our jobs.

Looking ahead

Q1: What are the most likely developments you see happening in the field of sexual assault investigations and presentation of evidence to the court?

A1: One of the things I hope we will see is the widespread development and use of adult advocacy centers. An example of this is Project Horizon.² Currently, many jurisdictions use child advocacy centers during the law enforcement investigation of crimes against children. This model follows protocol that, when safe to do so, if a child reports a sexual assault or other types of abuse, they are taken to a child advocacy center and interviewed by a child forensic interviewer in an appropriate environment. These child forensic interviewers are specially trained to interact with child victims and appropriately interview them. I anticipate we will start to see similar centers being established for adult victims of sexual assault, where a trained, trauma-informed interviewer interviews adult victims in a safe, comfortable environment. Just like in child advocacy centers, the interview rooms are equipped to record the interviews, and law enforcement will be able to

² Project Horizon, Lexington, Virginia: <https://www.projecthorizon.org/>

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observe the interview from a separate observation room. This will decrease the number of times a victim needs to tell what happened to them and provide immediate access to advocacy services.

Advice for future professionals in sexual offense investigations

Q1: What recommendations or advice would you give future law enforcement practitioners and prosecutors in the case of sex crime investigations and evidence gathering?

A1: I always say, especially to prosecutors, do not be afraid to swing the bat, do not be afraid to try these cases. They are difficult. If you are a special victims' prosecutor, you will lose cases that can be daunting and challenging; however, you are responsible for the effort, not the outcome. In my career, I have lost cases I was pretty confident I would win. But I have had success, and guilty verdicts in cases that I was pretty sure would not go well. The bottom line is that we never know how a case will play out in court until it is tried.

Q2: Is there any particular skill set you believe a good law enforcement officer needs for sex crime investigations?

A2: Empathy, empathy, and empathy. You cannot build trust and connection with victims of any violent crime, especially sexual assault unless you create an environment where they believe it is safe to be vulnerable and share what has happened to them. My partner, Mike Milnor, calls it the trauma bubble, creating an atmosphere where a victim feels safe enough to share with you this horrible experience. The question is, can you teach empathy? It's kind of like, can you teach charisma? I don't know that everyone is naturally empathetic. But I do think we can all work on better ways to develop it.

Q3: On the other hand, though, once you have gotten into that trauma bubble, you might be threatened by too much emotion, like a flood of emotions. And that will quickly lead to compassion fatigue and destroy your empathy.

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A3: We must always be aware of the risk of vicarious trauma. As prosecutors and law enforcement, we have historically not done an excellent job protecting ourselves from compassion fatigue and vicarious trauma. Suicide is, unfortunately, at a very high level among law enforcement professionals. We see higher rates of substance abuse issues, and many of us use unhealthy ways to cope with the horrible things law enforcement and prosecutors see on a daily basis. We are getting better at recognizing the need for incorporating wellness into our professions. For example, Virginia recently changed its continuing education focus to ensure we offered wellness education hours to lawyers. Many law enforcement agencies now require mental health debriefs after certain cases.

It is an education issue that can be changed

Q1: We discussed many important issues about trauma-informed investigations, from education to training, from legal regulations to practice, and from having the necessity to try cases to self-care. I am sure it will be informative for aspiring students and professionals. Anything else you want to add before closing?

A1: When one looks at our sexual assault response statistics or hears over and over in the news about the negative ways sexual assault cases are handled, people can draw the wrong conclusions. It can lead people to conclude that law enforcement, prosecutors, and even judges are acting from a place of malicious intent. Not to say that could never be the case, but by far, I believe that law enforcement officers and prosecutors chose this profession because they want to make a difference. The last thing we want to do is deliberately harm anyone who is a victim. I firmly believe it is a training issue. A lot of harm comes from the lack of education and training in understanding trauma. This leads us right back to why we created Justice 3D; if this is truly a training issue, we will improve if we do enough training. I think we can make a difference.

PROOF

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PROOF

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