

A black and white photograph of several people sitting around a table, engaged in a meeting or training session. They are looking at documents and talking. A blue diagonal graphic element is overlaid on the right side of the image.

A Title IX Webinar: Trauma, Brain Science & Title IX Complaints

Course Material
April 19, 2023

Presented by T9 Mastered LLC
a venture of Van Dermyden Makus Law Corporation



A T9 Mastered Webinar: **Trauma, Brain Science & Title IX Complaints**

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Biographies

Dr. Chris Wilson is a licensed psychologist from Portland, Oregon. For the past twenty years he's worked with victims and survivors of trauma. He currently runs Being Trauma Informed (BTI), an organization dedicated to making the science of trauma accessible to all. Prior to starting BTI, Dr. Wilson had a private practice conducting evaluations, psychotherapy, and providing training, with a focus on domestic violence and sexual assault.

Dr. Wilson is a guest faculty member at the US Army's Special Victim Capabilities Course, where he teaches military criminal investigators about the neurobiology of trauma. He formerly served as a curriculum consultant for The National Center for Campus Public Safety. He is also the co-author of the article "Understanding The Neurobiology of Trauma and Implications for Interviewing" (an abbreviated version of which was provided for Danish law enforcement in 2017) and "Judges' and Juries' Common Misperceptions About Domestic Violence Victims' Behaviors."



He's provided training, plenary, keynote, and breakout sessions for conferences and organizations across the United States, Canada, Italy, and Denmark, including the National District Attorney's Association, US Department of Justice, the US Department of the Interior, the US Navy, Marine Corps, Army, and Air Force, the US Office for Victims of Crime, End Violence Against Women International, the National Organization for Victim Assistance, the National Crime Victim Law Institute, and the New York Police Department.

Dr. Wilson received his doctoral degree in clinical psychology from Pacific University in 2002. He was licensed as a psychologist in the state of Oregon in 2005 and for six years served on the Board of the Oregon Psychological Association. He is also a member of the American Psychological Association.

Liz DeChellis is a Partner with Van Dermeyden Makus. She is licensed to practice law in the State of California, and is certified as a Senior Professional in Human Resources (SPHR).



Prior to joining Van Dermeyden Makus, Liz was employed at UC Davis where she routinely provided policy and contract interpretation to management and staff, responded to grievances and complaints, acted as the University Advocate for administrative hearings, and negotiated contracts with labor unions. Additionally, she conducted investigations and fact-findings and served as a Hearing Officer in student discipline hearings. Prior to law school, Liz worked in Human Resources for various companies, providing advice and assistance with recruitment, hiring, termination, and performance management.

Liz is also an experienced investigator in Title IX sexual misconduct claims. She has investigated cases involving underage Complainants, multiple Respondents, and allegations involving incapacitation and inability to consent. Liz understands best practices in the Title IX arena, and the challenges facing schools and parties when sexual violence allegations surface.

Liz frequently serves as an Appeal Hearing Officer for Title IX cases. In this role, Liz reviews campus responses to Title IX allegations within the framework of the individual school's appeal process. In her deliberations, she considers whether the administration's response to claims of sexual misconduct were compliant with policies meant to provide a safe campus for students. Liz has overseen cases involving dating violence, drug abuse, sexual assault, and incapacitation. She has experience questioning parties using trauma-informed techniques, making admissibility and relevance decisions, and issuing well-reasoned, thorough decisions.

Additionally, Liz has investigated matters at K-12 Districts, including allegations involving discrimination and compliance. Her investigations have included interviews of administration, classified staff, as well as paraeducators.

Liz graduated from McGeorge School of Law in 2012 and earned an undergraduate degree from UC Davis.

Trauma, Brain Science & Title IX Complaints

Dr. Christopher Wilson

Liz DeChellis

Clarifying/correcting “fight or flight”

- This is not an accurate representation of how the brain deals with threat - it was initially used to describe physiological responses internally.
- We have evolved as a species (like many others) to assess threat first, flee if we can, and defend ourselves in service of fleeing.

So why do some people neither flee nor defend themselves?

Defining Trauma

- Perceived fear/terror/horror + lack of control/perceived lack of control
- Threat with a sense of control = we will use habitual behavior to deal with the threat.
- Threat with a loss of control = we will often be at the mercy of our survival reflexes

The dynamic of control in the presence of threat

When we perceive control

If we perceive control, we will use the habits we've learned to protect ourselves in the face of the specific threat.

If you cook, you've learned various ways of putting out a fire on the stove - these are your habits.

Habits are more than just behaviors - they are also emotional and cognitive. You can't wish them away or think them away if they aren't helpful!

So - if someone has neither fled nor defended themselves, it's possible they learned to protect themselves from someone they know in the context of abuse in the home. If so, do we learn to be assertive? Do we

learn to say no, forcefully? Most folks learn to be submissive and use distraction (like humor).

When we perceive loss of control

When we assess threat, we do so in order to prepare to burst into action. However, if while assessing the threat we also perceive a loss of control, we may feel frozen while the brain appraises the threat. This can feel like being frozen, despite the fact that if/as soon as the brain recognizes a sense of control, we will be able to act.

Our survival reflexes come into play as we lose a sense of control

Pause – Flee – Defend (fight):

- Our brains have evolved for us to flee when possible. As Dr. Jim Hopper says, “even fighting is in service of fleeing.”
- So, it’s assess, then flee, then fight in an attempt to flee if possible/necessary.

IF the brain determines that fleeing and/or defending ourselves isn’t possible (and this is not a logical determination), it will often result in three versions of the brain shutting us down.

Dissociation:

- When folks dissociate, the interoceptive circuitry (which about our awareness of our inner experience) is greatly dampened. Why would you want to be aware of someone stabbing you, or of the horror of seeing someone close to you die, or the experience of being raped?
- We are “spaced out”, lose track of time and even space; sometimes folks report being in the upper corner of the room, watching the assault from afar.
- This is all in the service of survival and coping. It is an adaptive response.

Tonic Immobility

- Note that during the pause response we are alert and not moving, but ABLE to move if we chose to

- Tonic immobility = Paralysis, can't move or speak and you have "waxy flexibility" which means you maintain muscle tension. Others can move you/position you.
- Caused by extreme fear, physical contact with perpetrator, restraint, perception of inescapability
- Can last from seconds to hours
- Does not impair alertness or memory encoding

Collapsed Immobility

- Is very similar to tonic immobility: You can't move or speak
- Same basic causes = extreme fear, physical contact with perpetrator, restraint, perceived inescapability • Sudden onset (but more gradual offset) • Key differences from tonic immobility:
 - Extreme decrease in heart rate and blood pressure
 - Faintness, "sleepiness" or loss of consciousness
 - Loss of muscle tone – Collapsed, limp, etc.

In addition to pause/flee/fight we also have a reaction called **tend and befriend**:

- Tend to the offender's needs: this is based on the innate awareness that if the offender's needs are met, the offense will end sooner
- Befriend the offender: this is based on the innate awareness that we are less likely to be harmed if we build a relationship with the offender
- 2017 study with rats indicates that this response is likely conditioned by the release of oxytocin

One last reason why we may not flee nor defend...

Our brains are constantly mapping the environment to either safety or threat. Unfortunately, we do not update our maps very quickly - it's why our left foot reaches for the clutch when we go from manual transmission to automatic in a car.

In many cases, particularly when the respondent is known to the complainant (as is the case in the vast majority of Title IX complaints), the complainant initially maps the respondent to safety. While we'd like

this map to get updated to “threat” as the respondent’s perceived behavior is experienced as such.

Unfortunately, this is not how the brain works - we will default to map of safety, which both results in confusion cognitively as well as the brain not using habitual behavior that would be consistent with dealing with threat.

Trauma & memory: Issues with encoding

- Whatever you focus on gets in encoded, consolidated, and stored.
- In any experience, what we focus on is called “central” to us and is what gets encoded. The details we don’t focus on are called “peripheral.”
- Even when you are in control of your attention/focus, it’s important to understand that our questions as investigators need to allow individuals to talk about what was CENTRAL to them.
- Whenever we take control of an interview and ask about details that we THINK should be central, we run the risk of compromising accuracy of memory.
- A recent study demonstrated this: if you simply ask people to recall what was central to them, recall will be accurate at the rate of between 93-95%, even two years after the fact.

The impact of threat on encoding

- When we are faced with a threat, we no longer get to control what we focus on.
- Even if the threat is obvious, it’s impossible to predict what someone’s brain will consider “central” as opposed to “peripheral.”
- Trauma has an impact on what we logically may focus on; even when we know we have to identify someone, we may not focus on the obvious details that distinguish that person from others.

Trauma & memory: Issues with consolidation

- The hippocampus has to do with memory. Remember the phrase, “if you saw a hippo on campus, you’d remember!”

- The hippocampus adds context to the data points that make up our memories. For our purposes, we will think of this as "date stamping".
- Remember, during a traumatic event the hippocampus goes through two phases: flashbulb and fragmented.

Sensory based Memory:

- Encoded with support from the amygdala
- The amygdala often consolidates mainly with sensory data so cues for recall are going to be sensory based!
- Trigger or cue may have no apparent relationship to the event
- In the past, investigators asked sensory based questions for the purposes of assisting in establishing the who, what, where, when, why, and how.
For ex: "You remember smelling smoke? When do think that was? Where do you think you were?"
- Remember that a trauma informed approach is going to use sensory based memory as a potential door to more memory. So, we respond to a memory of smelling smoke very simply: tell me more about smelling smoke.

The impact on us

- Why does the trauma of others affect us?
- The first of two factors is about resonance - we can't help but resonate with emotional pain.
 1. We all have different mental maps for positive experiences.
 2. Every human has a mental map of emotional pain - so, as we hear about traumatic experiences, our brains can relate to the experience.
 3. This is called resonance.
- Our brains also have something called mirror capacity.
 1. As we see, hear about, or think about familiar movement, our brains fire like we are making that movement.
 2. So, we see faces of upset students, hear the upset in their tone of voice, and our brains fire as though we are having the same experience. It's inevitable.

- So, if experiencing some level of subcortical reaction to each painful story we hear, what can we do about it?

Building resilience

We can build resilience in a number of ways.

First, we can simply hear about the resilient experiences of others. Being inspired is like healthy candy for your brain!

Second, we can practice a number of different individual techniques that are proven to increase our capacity to experience resilience in the face of pain, upset, and trauma.

It all starts with connection to other human beings - when we are experiencing vicarious trauma, we often withdraw. One of the easiest ways to recognize whether you're experiencing vicarious trauma is to ask the simple question: am I available to connect?

It's incredibly important that we start by having a very concrete plan - practice makes permanent!

Practice mindfulness.

Cultivate gratitude - remember, this isn't about being positive - it's about finding even the smallest thing for which we can feel gratitude.

Move your body.

Spend time outside.

Get plenty of sleep.

Connect to anything that is greater than yourself.

Celebrate small victories.

Do small favors.

Have compassion for yourself!