

There's Nothing Crazy About It!

Common Issues in Mental Health within the Legal Profession







INTRODUCTION





WHO IS AFFECTED?



HOW DOES STRESS MANIFEST?

- Physiological/Psychological
- Individual specific
 - We're all unique - you have to be you. Let others be them.
 - Long fuse big bang
 - Short fuse little bang





**HOW DO I KNOW WHEN ...
I'M STRESSED OUT?**

WHAT TOOLS DO I USE?



WHAT TOOLS DO I USE?



SECONDARY TRAUMA

- DSM-V “trauma and stressor-related disorders”
- Causes
 - Empathy/sympathy
 - Prior traumatic experiences
 - Difficulty expressing feelings
 - Tendency to withdraw/blame
 - Social isolation
 - Constant exposure to trauma

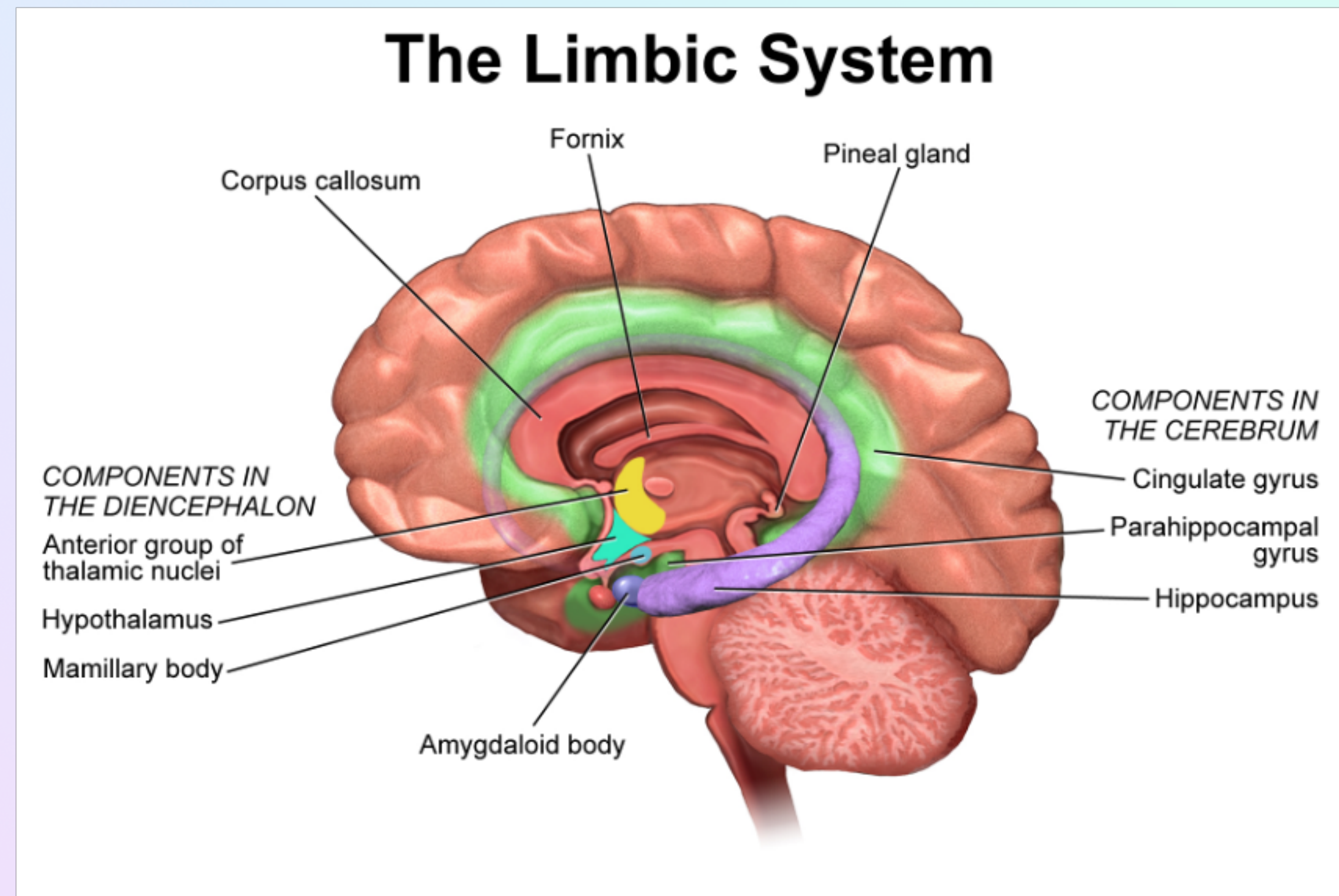
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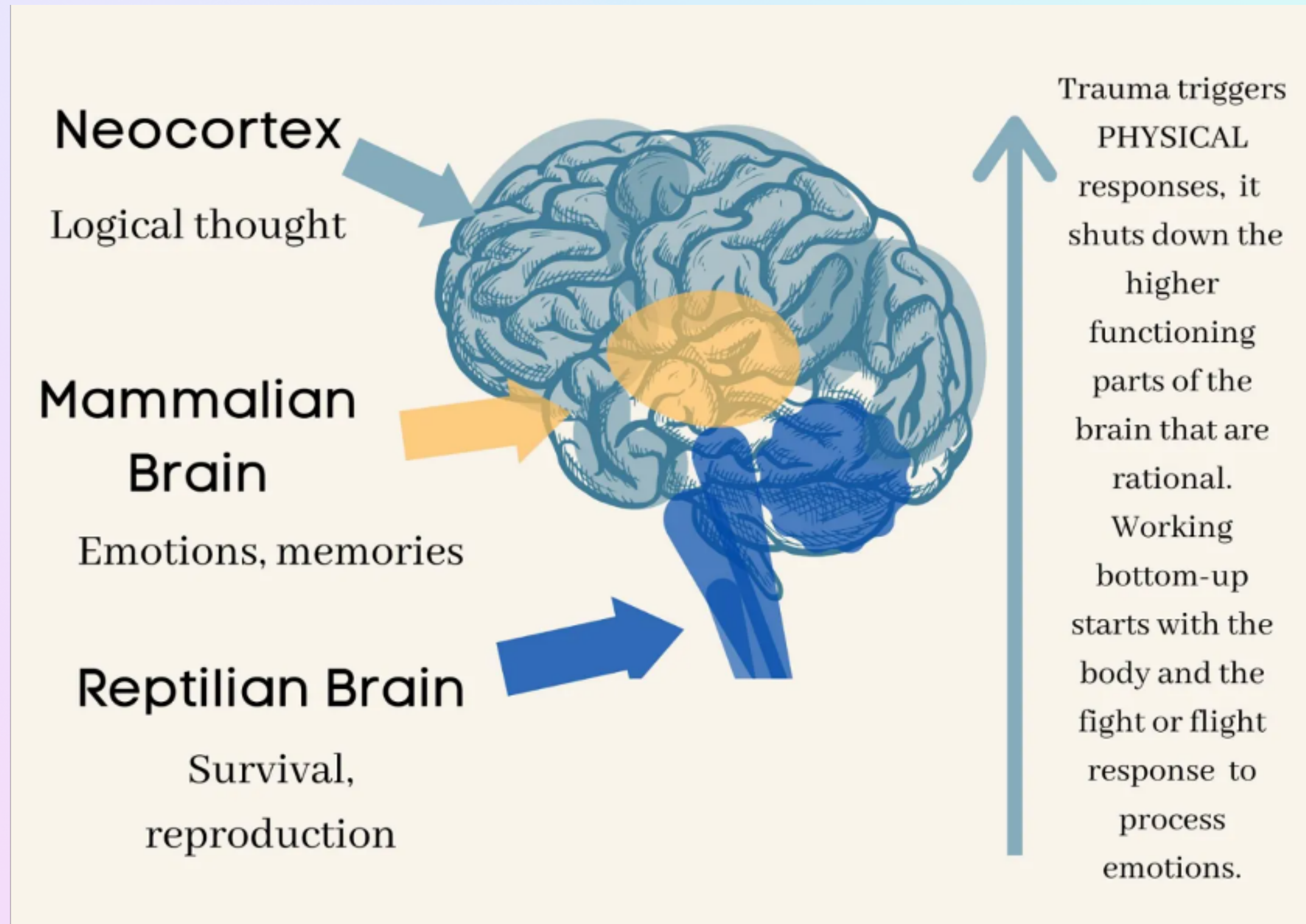


TOP DOWN/BOTTOM UP PROCESSING

- ' Conscious vs. Pre-Conscious
 - ' James-Lange Theory of Emotions
 - ' Paleomammalian cortex (fmr limbic system)

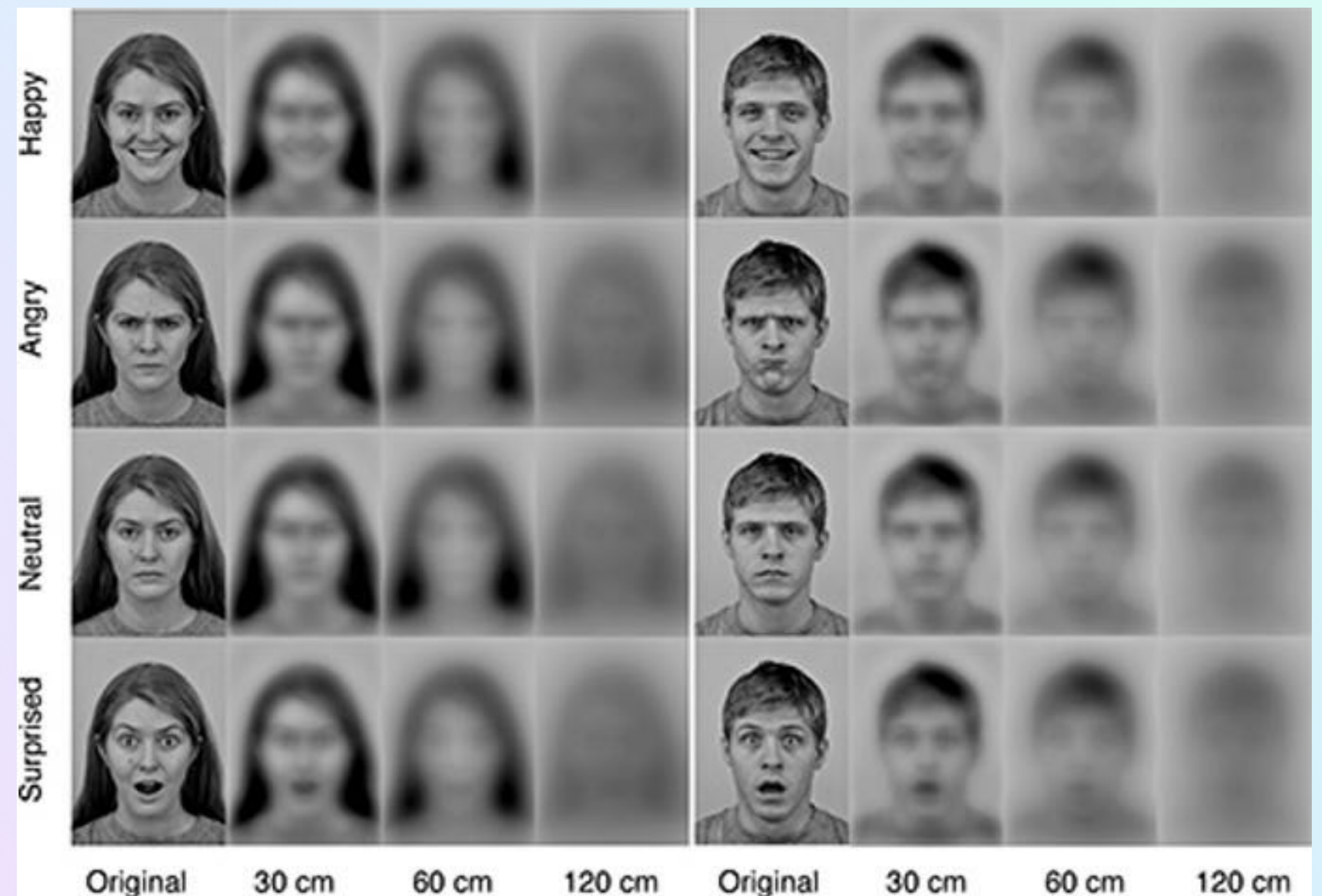


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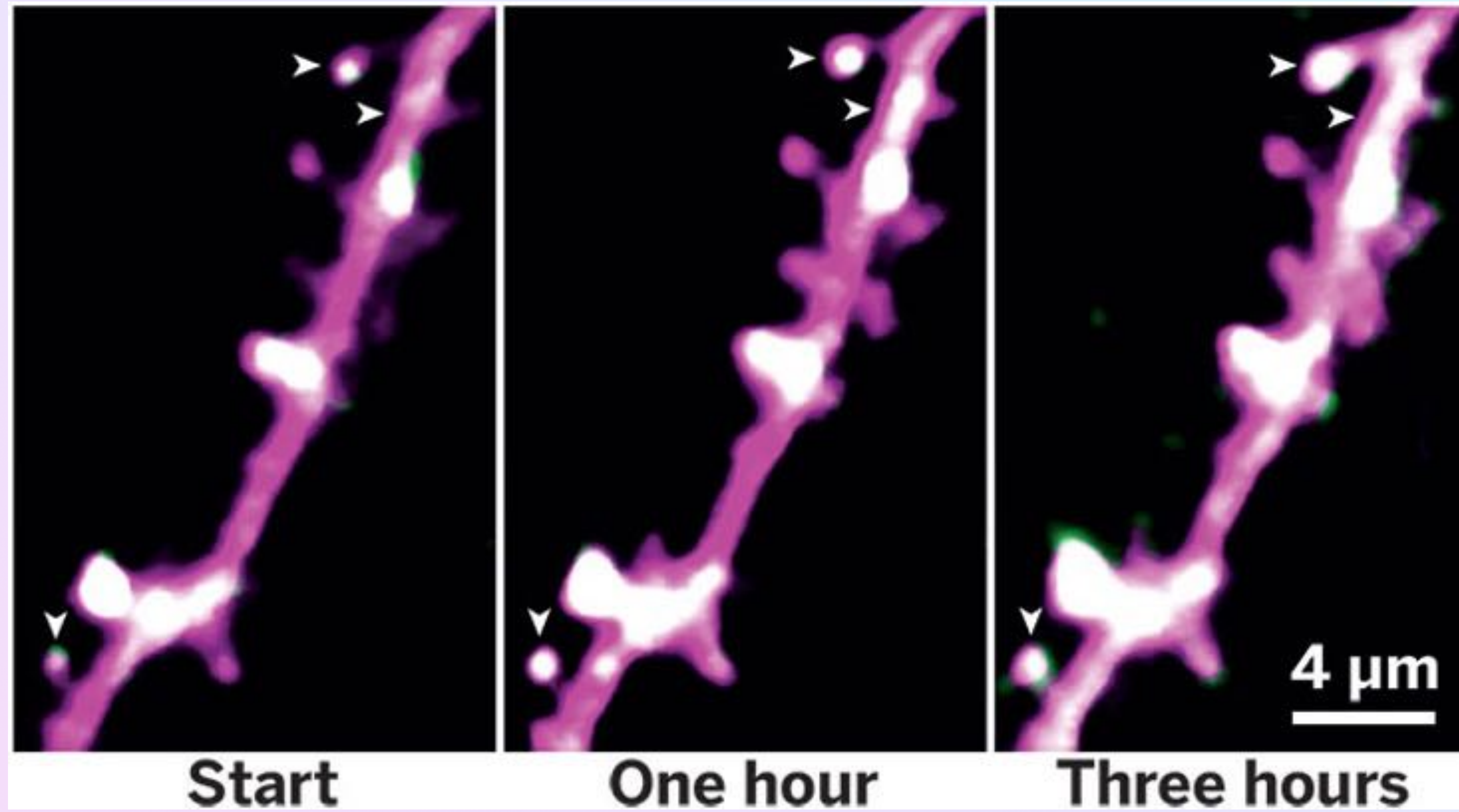
RE-ENFORCING PATHWAYS

- How our brain works 3,000 foot level
 - Neurons at birth ~100 billion
 - Organization and formation of synapses
 - Age 3 around a trillion synapses
 - Pathways strengthened
 - Unused die off (50% of the neurons)



WHAT THIS MEANS

- Trauma and stress before you're conscious of it.
- Reinforcing connections strengthens them.
- Talking yourself out of it doesn't work.



SOLUTIONS

- This depends heavily on the person.
 - Past Trauma (Treat Separately)
 - PTSD
- Short Run
 - Monitor Body – grounding
 - Narrative Structure
 - Alter Exposure
- Longer Term
 - Diet/Exercise
 - Boundaries (phone booth)
 - Connections/Relationships
 - Meditation
 - Therapy (EMDR, CBT)



NEW LAWYER STORIES

NATIONAL SURVEY

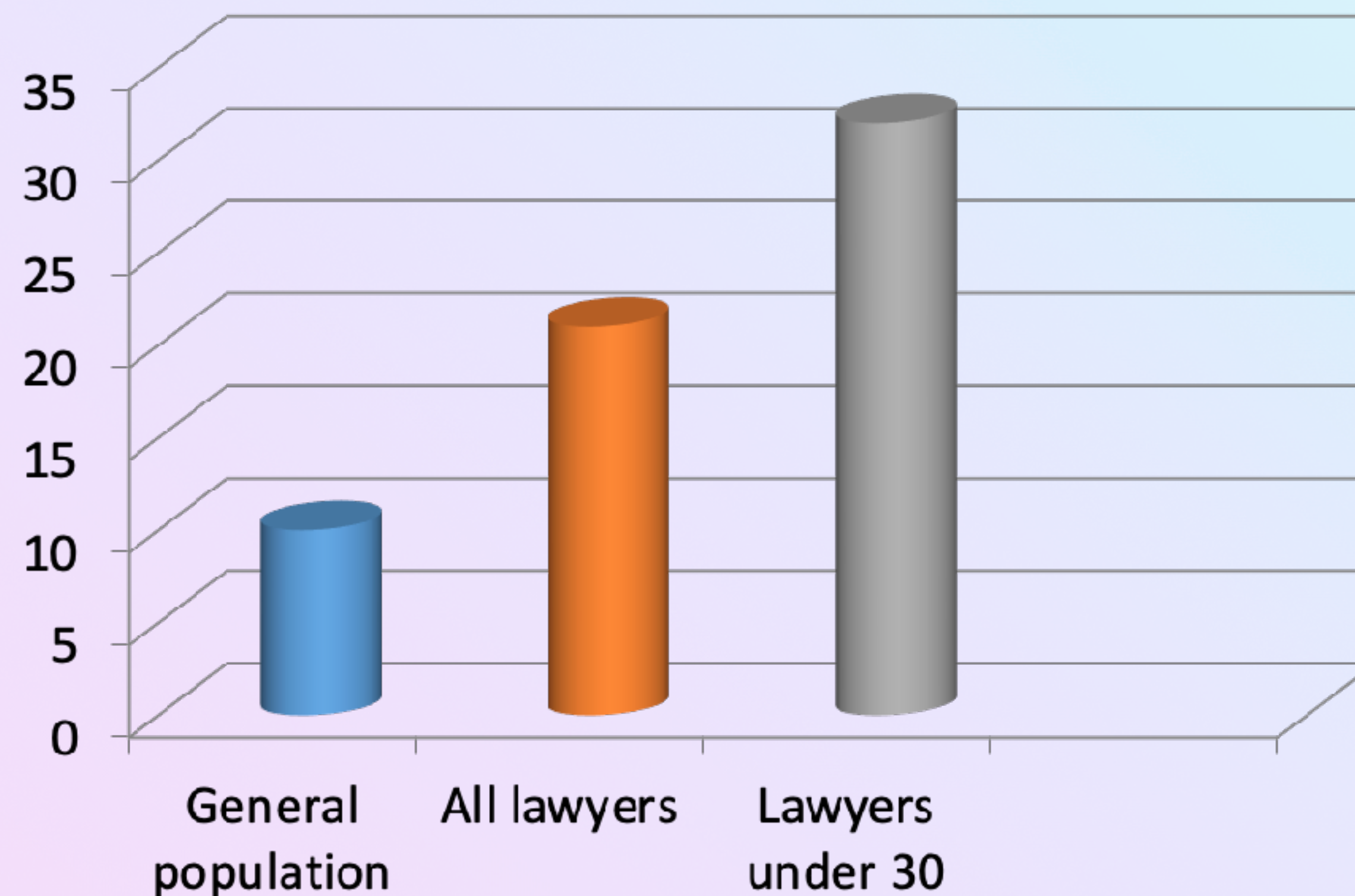
2016 Hazelden Betty Ford / ABA Survey

- National Survey – First of its kind; 13,000 lawyers; 15 states
- Identifying Rates of:
 1. Problematic Alcohol Use,
 2. Depression, Anxiety, & Stress,
 3. Help-seeking behavior.

ATTORNEYS AND PROBLEM DRINKING

2016 Hazelden Betty Ford / ABA Survey

"Problematic Drinking" = hazardous,
possible dependence



ANXIETY, DEPRESSION, AND UNHEALTHY STRESS

2016 Hazelden Betty Ford / ABA Survey

- **Anxiety Disorders**

- Annual Rate 19%
- Over the legal career 61%

- **Depression**

- Annual Rate 28%
- Over the legal career 46%

- **Unhealthy Stress**

- Annual rate 23%

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Significant percentage did not or would not reach out for help!

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WHY DON'T WE REACH OUT FOR HELP?



WHY DON'T WE REACH OUT FOR HELP?

- Stigma
- Shame
- Fear of professional repercussions
- Confidentiality concerns
- Perfectionism / self-reliance
- Lack of knowledge / resources



EMPLOYEE ASSISTANCE PROGRAM (EAP)

An Employee Assistance Program (EAP) is short-term, confidential counseling at no out-of-pocket expense to You. This EAP is available to You and Your immediate family, including family members living in Your home (who may or may not be enrolled in this coverage). Contact Us or Your Group for more information regarding EAP coverage, including the 24-Hour Crisis Counseling hotline.



OAAP

OREGON ATTORNEY ASSISTANCE PROGRAM

We are **counselors** and lawyers. We understand.

We help **lawyers, judges, and law students** develop the skills they need to meet the demands of their professional and personal lives in a healthy way.

Our services are **confidential** and free.

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TOOLBELT



ETHICAL IMPLICATIONS

RULE 1.16 DECLINING OR TERMINATING REPRESENTATION

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if: (1) the representation will result in violation of the Rules of Professional Conduct or other law; (2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client; or (3) the lawyer is discharged.

OTHER RELEVANT ETHICAL RULES

RULE 1.1 COMPETENCE

RULE 1.6 CONFIDENTIALITY OF INFORMATION

RULE 1.7 CONFLICT OF INTEREST: CURRENT CLIENTS

RULE 1.14 CLIENT WITH DIMINISHED CAPACITY

RULE 2.1 ADVISOR

RULE 5.1 RESPONSIBILITIES OF PARTNERS, MANAGERS, AND SUPERVISORY LAWYERS

RULE 7.3 SOLICITATION OF CLIENTS

RULE 8.3 REPORTING PROFESSIONAL MISCONDUCT

EXAMPLES

Examples of Impaired Mental Health Impacting Ethical Responsibilities

32 DB Rptr 140 (2018): Prosecutor engaged in a personal/intimate relationship with a subordinate and continued contact the subordinate during an investigation into the relationship.

Condition of probation: “shall continue regular treatment sessions with her current treating mental health professional (“Current Treating Professional”) or another mental health treatment provider determined by SLAC to be appropriate.”

(SLAC = State Lawyers Assistance Committee)

32 DB Rptr 388 (2018) Assistant city attorney observed masturbating in public office.

**Condition of probation: “shall continue regular treatment sessions with his current treatment provider (“Current Treating Professional”) or another mental health treatment provider determined by SLAC to be appropriate”
masturbation in public space (assistant city attorney)**

EXAMPLES

Example of Misuse of Client's Mental Health Information, in Violations of RPC 1.6(a)

35 DB Rptr 143 (2021) and 35 DB Rptr 128 (2021): Attorneys disclosed without authorization information concerning the clients' mental health concerns, in violation of Rule 1.6.

In 35 DB Rptr 143, the client "emailed Respondent on January 23, 2018, explaining that the litigation was having an adverse effect on her mental health and that she believed the property sale was falling apart . . . She also discussed her desire to end the litigation in a phone call with Respondent later that day . . .".

In trying to secure / enforce attorney lien, "Respondent included information in pleadings about the client, including emails from the client describing herself as 'mentally exhausted and just wanted this all to be over,' or words to that effect . . . [i]n one email to Respondent, the client stated that her mental and physical health 'could not take any more drama,' that she was 'overwhelmed,' that she didn't have the 'time, money or strength to fight this 'no win' battle in the States,' and that it all was making her ill."

JUDICIAL PERSPECTIVE



<p>The Oregon Attorney Assistance Program (OAAP)</p> <p>(503) 226-1057 (800) 321-OAAP <u>www.oaap.org</u></p> <ul style="list-style-type: none"> • Staff are trained counselors/lawyers who offer free and confidential assistance to lawyers and law students • Provides confidential assistance, support groups and interventions • No information is disclosed by OAAP to any person or organization without the consent of the lawyer involved • Reaches people who voluntarily seek and accept assistance 	<p>State Lawyers Assistance Committee (SLAC)</p> <p>(503) 431-6312 (800) 452-8260, ext 312</p> <ul style="list-style-type: none"> • A committee created by statute, providing peer assistance to lawyers • Assistance is confidential, but failure to cooperate with SLAC is a basis for SLAC to refer lawyer to Disciplinary Counsel • SLAC members can refer attorneys to assistance programs such as the OAAP <p><u>https://www.osbar.org/resources/slac.html</u></p>	<p>Oregon State Bar Disciplinary Counsel</p> <p>(503) 620-0222, ext. 319 (800) 452-8360, ext. 319</p> <ul style="list-style-type: none"> • Investigates lawyers based on alleged violations of Oregon Rules of Professional Conduct – may result in sanctions of disbarment, suspension, or reprimand • Involuntary – successful at getting the attention of lawyers who will not voluntarily access help
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INN APPRECIATION!