

Overview of judicial stress – or just humans doing a difficult job?

Is judicial stress the right term?

- What does this term mean exactly?
- The term hides the true meaning and origin of the problem, which leads to focus on the stressed judicial officer as an individual and not on the **nature of the work** and **systemic issues**.
- This leads to “blaming the victim” so no-one comes forward and nothing changes.

We already know the legal profession has the highest incidences of mental illness, substance abuse and suicide

- And lawyers become judges and magistrates
- So it follows, judicial officers arrive in the job with risk factors that the pressures of judicial responsibility lay ready to exacerbate.

What are the risk factors?

- Pre-existing mental illness
- High drug & alcohol use
- Personal & family stress
- Being a lawyer
- Being the decision maker in your own community

From the work

- Workload
- Dealing with distressing material
- Isolation
- Perfectionism
- A system that punishes mistakes
- Community & media scrutiny
- Heavy responsibility, particularly in decision making, bail and sentencing
- The challenges of access for justice

Nature of the work

- Trauma
- Child Abuse
- Violent crime
- Family dispute
- Terrorism
- Immigration

The changing nature & format of evidence

- Crimes filmed & recorded in real time
- Masses of graphic images
- Internet porn images
- And the technology doesn't always work or doesn't exist

And there is the issue of **Vicarious Trauma**, which is the trauma you get from other people's trauma, giving you the same symptoms as Post Traumatic Stress Disorder (PTSD). The UK Courts & Bar, the NZ and Australian Courts, Singapore and Canada **are all moving to deal with this.**

The elephant in the room

- Distressed or unwell judicial officers can become unintentional bullies to all those around them in the court and at home.
- This leads to others being injured in their workplace and home and withdrawing.
- This worsens the isolation of the officer and **increases the likelihood of mistakes & increased unwellness.**

We already know

- That you sentence **more harshly** before a meal break than **after you've eaten.**
- So how much more would distress and impairment lead to bad decisions?

Possible remedies, training for all judicial officers (indeed all lawyers) in:

- Recognising the early warning signs of mental illness & where to go to get help
- PTSD & vicarious trauma and strategies that will help mitigate it
- Resilience
- Managing relationships
- Funding & programmes to increase access for justice

Overcoming the reluctance to self-report

- Do you need to revisit the statutory obstacles to self-reporting?
- How would this be done?

Magistrates and judges are human

- Expecting invulnerability from our judicial officers, **dehumanises, isolates and injures them.**
- That leads to the injury of those around them and bad decisions.
- Which is bad for all of us.

Where to begin

- From this point use this forum to:
- Review the studies and work already being done out there.
- Set your priorities.
- Work towards implementation of some of the suggestions in this program.
- **I and others stand ready to assist.**

Vicarious trauma and how it affects judges

What is vicarious trauma?

- It is the trauma you get from hearing about someone else's trauma, and it **feels like it's happening to you.**

Who does it affect?

- Whoever as part of their daily work is **exposed to the trauma experienced by others.**
- Obviously judges fall into this category.

How does it work?

As people/humans we have developed **empathy** - the capacity to imagine what it might have been like for the person going through it. This empathy transmitted through our mirror neurons allows us to feel some of what they went through. Since the brain cannot distinguish between a thought and an action it responds as if it is happening to us.

Therefore, we develop **the symptoms of trauma similar to those we deal with.** The longer you work, the more stories you hear, the worse the symptoms.

Judges have already had massive exposure from their work before being called to the bench. Most of you arrive as a brand-new judge with VT.

However:

- Many people are **not aware they are affected** until there is a major, unexpected incident that triggers a major response.
- "The straw that broke the camel's back" if you like.
- The symptoms often have been **developing slowly** and as many of our colleagues have it too, no-one notices.

The symptoms

- Hyper arousal – having trouble sleeping, short fuse, startle affect, over reactions, rescue mentality, feeling like you can never do enough.
- Hypo arousal – withdrawal, tiredness, lack of motivation, difficulty getting things done, flat emotion.

These two can alternate.

- Avoidance – avoiding certain types of matters, or practitioners, forgetting, avoiding meetings, sickness.
- Somatic disturbance – aches and pains, lowered immunity, reactions smells and sounds, headaches, tiredness and accidents and injuries.

Your world view starts to change – you see victims and perpetrators everywhere, you become more **anxious about your life** and worried for those you love and more protective and conservative.

Or, you become addicted to adrenalin and take **more risks** in your personal life and become **indifferent** to the needs of loved ones, colleagues, and staff. These two can alternate.

Many colleagues, associates and others in the judicial system have these symptoms too, along with depression, anxiety and the personality disorders associated with trauma.

So, working together can become difficult.

What can the Court do?

- Recognise and **validate the condition**
- Provide **supervision, mentoring and counselling**
- Provide **training**
- Celebrate skills and **successes**
- **Value the work**
- Manage **workloads**
- Enforce holidays and **breaks**
- Allow for **rotation of duties**
- Provide debriefing and **peer and professional support**

Keeping your workplace safe by

- Good occupational **health and safety policies**
- **Stop bullying**, remembering 96% of bullies are unintentional, but doing harm none the less. This could be you!
- **Meeting with each other** and associates regularly face to face
- Having **wellbeing checks** for both your physical and mental health.
- Wellbeing **committees and practices**
- **Fun** in the workplace that does not include cynical or destructive humour
- **Manage change** well as it adds to anxiety
- **Manage conflict** effectively and in safe timely manner
- **Communicate and collaborate** with others
- Treat all with **courtesy**
- **Ditch perfectionism**
- Be grateful to your staff and thank them with words and gestures on a regular basis

Individual strategies for dealing with difficult content

- Consciously approach content, images or people with your **professional hat firmly on**
- Take **regular breaks** and walk away from the material from time to time throughout the day
- **Redirect your attention to something positive** or do a **mindfulness practice** before returning to the work
- Maintain a straight back and upright position when working to ensure a good lung full which helps stop your fear centre from firing and makes for better decisions. **Changing posture changes mood**
- Only deal with material the role demands

Remember

- If you are getting unpleasant content stuck in your head:
- Acknowledge as such, hold it there for a minute and then **consciously bring forward a positive memory**
- Go between the two for a minute and notice the difference in how you feel
- Then **focus on the positive one**
- Developing a **mindfulness practice** will help you

Be prepared

- To respond positively to feedback from colleagues, mentors, and friends if they are concerned about you
- Ask for help if the above strategies are not helping you

Thank you

- And from me: a very heartfelt thanks for the very important and skilful work you do on my behalf and that of the community.
- **I am grateful to you all every day.**

Proactive wellbeing strategies for Judges

Support needs to be provided and accessible

- Mentoring programs
- Easy access to mental health professionals
- Support for the families of judicial officers
- Wellbeing checks
- Being able to self-report & have relief from certain matters

Former UK Family Court Circuit Head Sir Andrew McFarlane suggests:

- Reviewing how work is done
- Length of court orders needs to be reviewed
- Short orders will do
- Stop the 24-hour response to emails & texts
- Proper lunch breaks
- He says: "Where there is pressure on the list, the list should give way not the wellbeing of the judge"

He also suggests

- You don't solve the problem by burning people out
- Reduce cases coming in or make the court 'match fit' by increasing the number of judges
- The judicial office is funding every criminal judge once a year counselling with an outside counsellor
- Judges on difficult cases to be put in touch with a counsellor during the case. Their families can access these counsellors too

In New Zealand they are implementing

- Mauri Tu wellbeing policy and program along with the Tuakana Teina mentoring programme

This includes the components of

- **Mental health:** judges are encouraged to take up annual wellbeing checks with an outside provider
- **Pastoral response protocol** through heads of bench for critical incident & trauma
- Enhanced **counselling services** up to 6 sessions annually
- **Professional development** ongoing training & resources

Following a conference last year thought is now being given to **Proactive Wellbeing Sessions** which can **pre-empt problems and encourage ongoing practice improvement.**

In Australia

- The Federal Court is offering annual **physical and wellbeing checks**
- Judges in each state have been nominated as a contact point for a judge seeking assistance.
- At least 2 local clinicians in each state are been contracted to provide clinical services to the judges when requested

The Federal Circuit Court & Family Court of Australia

- Is conducting a trial which provides the **wellbeing checks and pastoral care** mentioned above
- And Proactive Wellbeing Sessions for judges with an external provider

Individual strategies for Judges to manage stress

How to manage your own state

- Remember you chose to work in this field, you can change your mind at any time, the clients cannot
- Remember it is NOT happening to you and be grateful not guilty
- Feel proud of what you can do and work on increasing your skills
- Cultivate empathy approach rather than avoid

Find for yourself

- Mentors
- Coaches
- Training and professional development
- Opportunities to mentor others
- Keep reading, keep thinking be creative with what you try in your work

Also

- Take breaks
- Keep your social life up outside work
- A mix of friends

- Develop and sustain new and varied interests and hobbies

And don't forget

- Sleep
- Diet
- Exercise
- Mindfulness techniques
- Play
- Nurturing relationships
- Daily gratitude practices

Finally

- **Plan** your career
- **Ask yourself** every year if you want to keep doing this
- Take long **breaks** from time to time
- Go **do something else** when you feel you have had enough
- Be aware of **adrenalin addiction**
- Be kind to yourself and your colleagues
- In bearing witness to their pain, you are helping them
- Be proud of what you do!

Thank you for the incredibly important work each & every one of you do every day on my behalf & for **the benefit of the whole community**. We need you & we need you well, happy & supporting each other.

Resources

- Frankl Victor, Man's Search for Meaning
- Figley Charles, Compassion Fatigue
- Van Dernoot Lipsky, L & Conte, J.R. Trauma Stewardship
- Wax, Ruby. Mindfulness for the Frazzled
- www.wellbeingatthebar.co.uk
- Bradey, R. The Resilient Lawyer (<http://www.lawcover.com.au/personal-wellbeing/>)
- Heilpern, D. Lifting the Judicial Veil Vicarious Trauma, PTSD and the Judiciary: a personal story,
[http://www.judicialcollege.vic.edu.au/sites/default/files/Heilpern%20\(2017\)%20TJMF%20Lifting%20the%20Judicial%20Veil.pdf](http://www.judicialcollege.vic.edu.au/sites/default/files/Heilpern%20(2017)%20TJMF%20Lifting%20the%20Judicial%20Veil.pdf)
- <https://www.counselmagazine.co.uk/articles/secondary-traumatic-stress>