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IN SIGHT for Oregon Lawyers and Judges

IMPROVING THE QUALITY OF YOUR PERSONAL AND PROFESSIONAL LIFE

A TRAUMATIC TOLL ON LAWYERS AND JUDGES

As a Deputy District Attorney, “Mike” was required by county policy to share the DA Office’s on-call responsibility to respond to the scene of all unattended deaths, deaths involving suspicious circumstances, and fatal traffic accidents. In his first several years on the job, Mike responded to the scene of a number of fatalities, including some gruesome fatal accidents. Over time, witnessing these events began to eat away at him, especially when the fatal event involved a child. He became more and more concerned about the safety of his family, often feeling compelled to call home after responding to one of these scenes to make sure that they were okay. He came to dread the two-week periods that he was on call.

Viewing graphic evidence of trauma and investigating and prosecuting child sex abuse cases continued to take an emotional toll on Mike. At the time, he couldn’t identify or find an outlet for the negative feelings that were building up. He thought he had to just “suck it up,” pretend that nothing was bothering him, and try to be tough. The last time Mike was called to respond to a crime scene was in the middle of the night, just a few blocks from his home. A mother and her 13-year-old daughter had been brutally stabbed to death. A younger brother escaped the perpetrator’s detection and found his mother and sister. Mike and the first police officer to respond had arrived so quickly that they searched the pitch-dark backyard by flashlight for the perpetrator, who they thought might still be at the scene.

By the next morning, Mike was not feeling well. He became intensely anxious about his own personal safety and that of

his wife and his children – who, he realized, were about the same age as the victim and her brother. He also became intensely anxious and afraid at night or in the dark, when he could not see potential threats. Difficulty sleeping began to take a physical toll on him. The anxiety and hypervigilance triggered by this event would not subside and significantly impaired his ability to perform certain aspects of his job.

Mike was referred to a mental health professional with experience in trauma counseling. The counselor advised against Mike’s resuming his on-call duties of responding to the scenes of fatalities. However, Mike believed that this duty was an essential part of his job and that it would be unfair to his coworkers for him to be relieved of this responsibility. So he transferred to a child support enforcement position. After several more years, Mike retrained in another profession and transitioned to a non-law career.

Mike’s response to the cumulative trauma that he was exposed to was a normal response to horrific events that most of us never witness. The emotional cost he has paid is all too common among those exposed to trauma.

Empathy: A Pathway for Trauma

We are born with the capacity to experience what others experience and participate in their experience by virtue of the way our nervous system is grabbed by their nervous system.¹

Empathy is the capacity to vicariously feel what others are feeling. Our capacity for empathy is produced by clusters of neurons in our brains called “mirror

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neurons.” Brain researchers recently discovered that the same mirror neurons that fire in our brains when we experience specific events and perform certain activities also fire when we observe someone else experience that same event or perform that same action. Consequently, we experience vicariously in our minds what we observe someone else do or experience. Mirror neurons are also triggered by hearing stories or reading descriptions of another’s experience.²

Trauma’s Destructive Impact on Lawyers and Judges

*It is impossible to listen and bear witness to the traumatic experiences of trauma survivors and not be changed.*³

Lawyers and judges working in certain practice areas (e.g., criminal, family, and juvenile law) are regularly exposed to human-induced trauma. They are called on professionally to empathetically listen to victims’ stories, read reports and descriptions of traumatic events, view crime or accident scenes, and view graphic evidence of traumatic victimization. These professional tasks trigger their mirror neurons, producing stimulation in their brains similar to that of the trauma victims.

Over time, a significant number of lawyers and judges working in these practice areas experience and exhibit symptoms of posttraumatic stress:

- Elevated anxiety;
- Hypervigilance (being constantly on guard and alert to possible threats to themselves, family members, or loved ones);
- Difficulty concentrating;
- Difficulty sleeping;
- Irritability, anger;
- Disturbing images from cases intruding into thoughts and dreams;
- Avoiding people, places, or events connected with trauma;
- Dreading working with certain types of cases or clients; and
- Avoiding or becoming less responsive to clients, cases, colleagues, family, or their social network.

Many lawyers and judges chose to go to law school

because they wanted to help others or make a difference in the lives of others. They began their careers hopeful, optimistic, and confident. They were trained to conceal weaknesses and deny vulnerability. Most assumed that their work would not have an emotional impact on them.

Exposure to stories of trauma, pain, and suffering, in a work environment where unrelenting demands outweigh available resources, can slowly exhaust a person’s capacity for compassion and negatively transform their view of themselves and the world. This progressive erosion from hope and compassion to cynicism, demoralization, and emotional disengagement now has a name: compassion fatigue. Compassion fatigue has been defined as the cumulative physical, emotional, and psychological effects of being continually exposed to traumatic stories or events when working in a helping capacity. The risk of compassion fatigue for those who work with perpetrators or victims of trauma is real but not inevitable.

Compassion Fatigue Risk Factors

- Attorneys and judges with high capacity for empathy are most at-risk;
- Attorneys and judges who work in criminal, family, or juvenile law;
- High caseloads and caseloads involving human-induced trauma;
- Lack of education about the potential impact of ongoing exposure to traumatic material and events;
- Lack of peer support and opportunities to debrief cases involving traumatic material;
- Inadequate resources to meet professional responsibilities and demands; and
- Limited job recognition.

Mitigating Compassion Fatigue – What Lawyers and Judges Can Do

Awareness. Understand what compassion fatigue is and periodically self-assess for it using a compassion fatigue checklist of signs and symptoms. (See page 4).

Debriefing. Talk regularly with another practitioner who understands and is supportive. This in-

volves talking about the traumatic material, how you think and feel about it, and how you are personally affected by it.

Self-care. Proactively develop a program of self-care that is effective for you. This includes healthy eating, exercising regularly, getting adequate rest, and learning how to turn off the “fight-or-flight response” of your sympathetic nervous system and turn on the “relaxation response” of your parasympathetic nervous system.

Balance and Relationships. Take steps to simplify, do less, ask for help, and stop trying to be all things to all people, including your clients. Start thinking about how you can work on balance rather than the reasons you can’t. Working to develop and maintain healthy interpersonal relationships will also increase your resilience.

Professional Assistance. Treatment from a licensed provider specializing in trauma may be beneficial. Eye Movement Desensitization and Reprocessing (EMDR) is a counseling approach that has proven effective in helping traumatized and vicariously traumatized individuals. Referrals to mental health professionals, including those certified in EMDR, can be obtained through the OAAP and the EMDR Institute (www.emdr.com).

Being Intentional. If you are overwhelmed and struggling with depression, anxiety, substance abuse, or compassion fatigue, put a plan for change in place. Recognize that the attributes that contribute to your professional success (e.g., motivated, perfectionistic, achievement-oriented, driven, fixer) and your work environment may be contributing to an imbalance in your life. Monitor your thoughts, emotions, and behaviors. Seek assistance to help you implement change and redirect the thoughts that tell you, “I should be able to do this by myself.” Your new mantra can become, “I don’t have to do it all by myself.”

What Firms and Employers Can Do

Law firms, public employers of lawyers, and the judiciary need to recognize that compassion fatigue impacts the lawyers working for the organization. Prevention strategies include:

- Reducing caseloads (due to the correlation between high caseloads and the prevalence of compassion fatigue);
- Educating legal professionals and staff about compassion fatigue and its impact; and
- Encouraging and training legal professionals and staff to regularly debrief their trauma cases in a supportive atmosphere.

With the current culture of budget deficits, limited resources, and increasing caseloads, it is difficult but imperative for public defenders, prosecutors, criminal defense attorneys, family and juvenile law attorneys, and judges to adopt a strategy for addressing and mitigating their vulnerability to vicarious trauma and compassion fatigue.

If you or someone you know is struggling with compassion fatigue, call the OAAP and ask to speak to an attorney counselor. OAAP assistance is free and confidential. Call 503-226-1057 or 1-800-321-6227.

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¹ Rothschild, B. *Help for the Helper: The Psychophysiology of Compassion Fatigue and Vicarious Trauma*, p.9. New York: W.W. Norton & Company (2006).

² Dobbs, D. *A Revealing Reflection: Mirror Neurons Are Providing Insights into Everything from How We Learn to Walk to How We Empathize with Others*. Scientific American Mind, April/May 2006.

³ Saakvitne, K., Pearlman, L. *Transforming the Pain: A Workbook on Vicarious Traumatization*, p. 17 New York: W.W. Norton & Company (1996).

Signs and Symptoms of Compassion Fatigue

- Perceiving the resources and support available for work as chronically outweighed by the demands
- Having client/work demands regularly encroach on personal time
- Feeling overwhelmed and physically and emotionally exhausted
- Having disturbing images from cases intrude into thoughts and dreams
- Becoming pessimistic, cynical, irritable, and prone to anger
- Viewing the world as inherently dangerous, and becoming increasingly vigilant about personal and family safety
- Becoming emotionally detached and numb in professional and personal life; experiencing increased problems in personal relationships
- Withdrawing socially and becoming emotionally disconnected from others
- Becoming demoralized and questioning one's professional competence and effectiveness
- Secretive self-medication/addiction (alcohol, drugs, work, sex, food, gambling, etc.)
- Becoming less productive and effective professionally

Osofsky, J., Putnam, F. & Lederman, C. *How to Maintain Emotional Health When Working with Trauma*. *Juv. and Fam. Court J.* 58, no. 4 (2008).