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Is compassion fatigue an issue for judges?

By Judge Michael A. Town

"How do you deal with it?" "Isn't it depressing?" "Doesn't it eventually get to you?"

Judges are asked these questions regularly. Folks know that most judges hear a variety of cases which are often emotional, sad, and at times, profoundly tragic. At the beginning of my judicial career, my response to such questions was that I not only enjoyed my job, but also found it important and interesting work. While that is certainly true, there is more. A recent study shows that these cases do take their toll on us and can also impact our families and friends. Repeatedly hearing cases involving child custody, divorce, child abuse, mental illness, homicide, and domestic violence do affect us in many ways. At times these cases resonate within us and can wear us out. Some judges, however, thrive on the energy of the courtroom and the issues and emotions generated. These judges serve for many years and find being a judge not only a true "calling" but engaging and rewarding.

This article is about compassion fatigue and whether it is a real and palpable phenomenon for judges. And, if it is for those of us who wear the black robes and are surrounded by the accoutrements of our office, how must it be for the advocates, counselors, shelter workers, attorneys, and other court staff? What is it like for the broader community members who participate as litigants, jurors, and witnesses and hear the very same evidence?

There is a substantial body of literature on compassion fatigue in social workers, police, and emergency relief workers. Interestingly enough, there is precious little written on the effect these cases have on the lawyers and judges who hear them. When I was asked by Dr. Peter Jaffee to contribute to an article to be published in the fall 2003 issue of the *Juvenile and Family Court Journal* about a study involving compassion fatigue and vicarious trauma in judges, I readily agreed. I am glad that I did. The process of collaborating and coauthoring the article with two psychologists and an experienced family law attorney provided me with insight and respect for the phenomenon of compassion fatigue in judges. I also came to respect those judges who persevered and even thrived in this often-stressful environment.

The Study: What Does It Say?

This may be one of the first studies of compassion fatigue in judges. My colleagues surveyed over 500 judges attending various domestic violence conferences across the country regarding the effect their court calendars had on them. One hundred and five judges responded (54 percent male and 46 percent female) and the results were significant and disconcerting, with 63 percent of the judges reporting one or more symptoms identified as work-related compassion fatigue. Judges with seven or more years of experience reported higher levels of externalized symptoms such as anger or hostility. Interestingly, female judges reported a greater incidence of compassion fatigue including internalized symptoms (73 percent female judges versus 54 percent male judges). Seventy three percent of the judges reported one or more coping or prevention mechanisms focusing on personal, professional, and social strategies. The judges who participated averaged 51 years of age and averaged 10 years of judicial experience. Eighty one percent of the responders heard some criminal cases, with 54 percent hearing domestic relations

and civil court work, and 30 percent hearing some juvenile court matters as well, totaling over 100 percent due to varied or mixed calendars. The data bears thoughtful discussion, discernment, and hopefully some substantial follow-up.

What is Compassion Fatigue?

Compassion fatigue in judges is the result of vicariously becoming worn down and emotionally weary from hearing about and dealing with situations where people have been physically and emotionally injured, hospitalized, and all too often killed. These are litigants who suffer “on our watch,” so to speak. These cases have a way of creeping into our lives, and that is only natural if the judge cares about and is engaged in his or her work. In thinking about the subject, I have come to understand that these cases affect us in many ways. For me, the volume and nature of the cases can sometimes be overwhelming. Indeed, even one case can be devastating, and most of my colleagues can recall a profoundly tragic individual case even though it occurred years ago.

The symptoms of compassion fatigue in judges are fairly predictable. Some judges reported internalized symptoms including sleeplessness, eating disturbances, increased anxiety, depression, and hypervigilance. Others reported external symptoms including becoming increasingly angry, irritable, and intolerant of others. Some judges reported increased fearfulness and security consciousness, the inability to make prompt decisions (procrastination), and increased difficulty focusing or concentrating. Some judges felt quite ambivalent and, therefore, anxious about critical decisions that were close calls. While most people experience one or more of these emotions or behaviors at some point in their lives, the frequency and acuity of the symptoms seem to elevate when we are responsible for the lives of others. Of great interest to me was our finding that compassion fatigue seems to peak at the seven-year mark during the judge’s tenure. Efforts to address this well before the seven-year mark are obviously in order.

Coping Strategies

As discussed, 73 percent of the judges reported some effective coping strategies beyond what some jokingly referred to as “golf and alcohol” at the end of the day or work week. Some of these are obvious and others more subtle. On a personal level, judges found that physical activity, rest, relaxation, and positive social contacts were most helpful. Others found professional improvement quite important. Examples might include ongoing professional education, collegial gatherings and discussions including mentoring sessions, and professional reading. Some judges found that writing articles, sitting on judicial improvement committees, and public speaking about the judiciary were ways to channel their energy constructively. Ironically, we as judges seem to take responsibility for our personal lifestyles, but have difficulty with external factors out of our control, including judicial administration and normal family milestones or developments. Interestingly, our spouses report that we suffer more symptoms than we are willing to self-report. Does that sound familiar?

Colleagues from around the country tell me that poorly run courts, inefficient judicial administration, and systemic glitches not only hurt judicial morale but also certainly exacerbate compassion fatigue. Judges want some assurance that what they do has built-in checks and balances, and they are not simply “winging it.” By building in redundancy measures or contingency plans in high-risk cases, judges might have more confidence in what they do. One example in my view would be domestic violence fatality reviews. These reviews can be an essential part of normal systemic reviews and improvements, as is the case in hospital administration with morbidity and mortality reviews. It seems obvious that improving litigant safety will improve judicial morale and reduce future compassion fatigue.

Our study suggests that judges follow the ABCs of compassion fatigue prevention and avoidance: (1) awareness; (2) balance; and (3) connection. In my view, awareness is the most critical factor because we have all seen professionals, including judges, who work long hours, have a very cluttered office and car, and no time for normal pursuits. Often, poor physical health and a

problematic family life accompany this. Can we leave work by 5 p.m. on a daily basis? Do we regularly take files home? Do we have healthy outside interests? In short, have we established both personal and occupational work boundaries?

Balance and connection are equally important. Judges find strength in their communities, their cultures, their faith, their colleagues, and their families. A healthy sense of humor seems helpful. Of particular interest to me after over 25 years on the bench are effective communication skills. Being an active listener and gently confirming the factual positions and emotional stances of the witnesses, attorneys, and litigants assures us that we continue to be engaged in truly listening and discerning the right decision. Judges who develop their own unique style and “voice,” which is effective, authentic and real, appear to be more satisfied over the long term. Being positive, civil, and courteous seems to go a long way according to many judges. It is a matter of each judge’s own personal style and their particular community’s judicial culture.

Conclusion

Judges suffer from compassion fatigue as a result of continually hearing cases where people are physically and emotionally devastated. Awareness of the phenomenon and symptoms by the judge, their families, and their staff seems critical. Judges who are alert to compassion fatigue can make every effort to avoid it by establishing clear boundaries and acquiring key coping skills. The judge can balance the rigors of their work by identifying and connecting with key people, as mentors or sounding boards, and by utilizing some of the methods other professions find helpful.

Judicial administrators need to be aware of compassion fatigue and provide serious, not token, systemic support, particularly in cases where there is a risk of serious injury or death. In my view, thoughtful systemic death reviews are a necessity, as they give judges some sense that the system is self-correcting and geared to establishing a culture of safety. That way, the judge can continue to hear these risk-laden cases professionally without constantly worrying that “the other shoe will drop.”

In my view, judges need to periodically “take stock” of themselves and realize that this kind of work is not for everyone. They should be willing to rotate into other less stressful calendars, taking sufficient time off for a break or sabbatical. They must candidly and regularly reassess being a judge and, hopefully by the seven-year mark, consider a careful self-assessment and possibly reinventing themselves as a judge or in another role. These are all well-established options in other professions, but exceedingly difficult where becoming and being a judge is perceived to be the pinnacle of one’s career.

The bottom line is that judges must continually attend to their physical and emotional health in a rigorous and disciplined way by utilizing all of the proven techniques employed by other professions. The judiciary and the individual judges are often society’s last outpost of accountability, intervention, and hope for families and children in distress. Surely, we must consider holding ourselves personally accountable while at the same time holding others legally responsible.

Judge Michael A. Town is presently assigned to the Criminal Division of the Circuit Court in Honolulu, Hawaii, and often lectures on subjects such as the unified family court, domestic violence, alternative dispute resolution, therapeutic, preventative, and restorative justice. He can be contacted at towno@lava.net. This column originally appeared in the National Domestic Violence Fatality Review Initiative Newsletter. The column is published here under the sponsorship of the Quality of Life and Career Committee. The committee’s Web site is at www.flj-lap.org/qlsm. The Quality of Life and Career Committee, in cooperation with the Florida State University College of Law, also has an interactive listserv titled “The Healthy Lawyer.”

Details and subscription information regarding the listserv can be accessed through the committee's Web site or by going directly to www.fla-lap.org/qlsm.

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