

From stress to resilience

The County Court Supporting Judicial Resilience Program recognises the unique environment in which judges work and creates opportunities to enhance their capacity to manage stress and exposure to vicarious trauma. **BY JUDGE FELICITY HAMPEL**

In the County Court we are turning the talk from judicial stress to judicial resilience. There is a long and depressing catalogue of factors which have been identified as causes of judicial stress. They include isolation, loneliness, heavy workloads, the nature of the work, and exposure to the traumatic experiences of others. As judges are people too, personal factors such as relationships, health, and family responsibilities may also impinge on a judge's capacity to engage in their judicial work.

Resilience, that is, the ability of an individual to properly adapt to stress and adversity, is an important quality in a judge. The Court is conducting a pilot program to enhance the capacity of judges to manage stress and exposure to vicarious trauma.

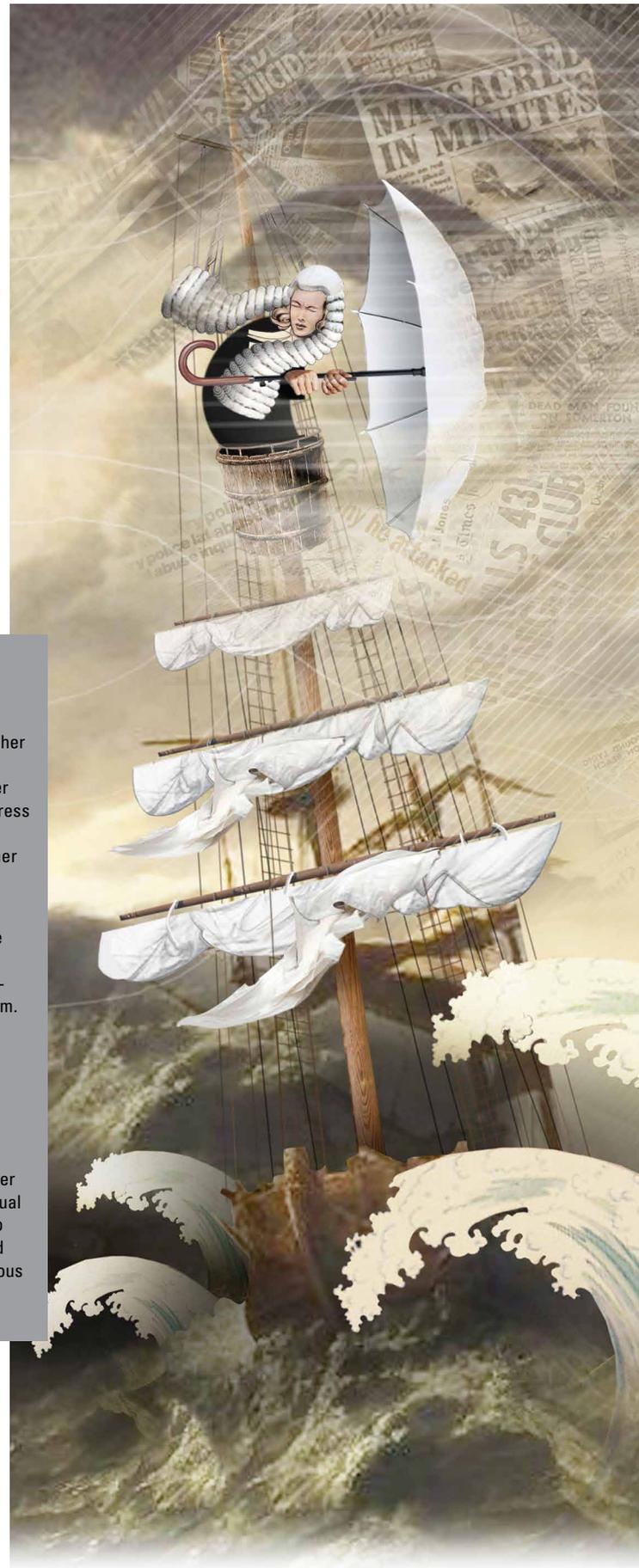
The problem

Studies have shown what we have long suspected. Lawyers are different from other people. Lawyers are at higher risk of suffering depression or other psychological distress than the general population and other professions. As Sydney University's Brain and Mind Institute 2009 study of depression literacy and psychological distress in Australian law students showed, this heightened risk starts at law school.¹

Suggested reasons include the emphasis on abstract theory over practical training, on negative, pessimistic and depersonalising critical thinking, and on individual and competitive work, over collaborative, or team based approaches. These predisposing factors can be compounded by the broader community's negative and stigmatising attitudes to mental illness, and low levels of knowledge about mental illness and respect for mental health professionals.

SNAPSHOT

- Lawyers are at higher risk of suffering depression or other psychological distress than the general population and other professions.
- The Supporting Judicial Resilience Program was developed as a six-month pilot program.
- 20 judges and four mental health professionals engage in one-on-one debriefing, counselling or supervision, in order to enhance individual judges' capacity to manage stress and exposure to vicarious trauma.



Judiciary

A combination of the personality types attracted to, or successful in the practice of the law, the inherent nature of the job, work practices and the way workplaces are organised are all likely contributors to heightened risk of depression or psychological distress.

Personality types or characteristics include perfectionism; questioning, or challenging everything you are told; pessimism, or catastrophising and emotional detachment, that is, intellectualising, rationalising, or displacing problems onto others.

We have grown up practising law, but it is opportune to take a step back, and look objectively at the inherent nature of the work of the courts. Not only is the system adversarial, all too often adversarialism is marked by aggression and competitiveness. The system operates by judges as well as lawyers taking on other people's problems. And we are always looking for what could go wrong.

Our work practices and organisational structures can add to the problem. Specialisation leads to repeated exposure to the same types of issues.

There seems little argument now that the nature of the work exposes us to the risk of vicarious or secondary trauma, that is, regular exposure to the traumatic experiences of others. What limited research there is suggests lawyers may experience higher rates of secondary trauma than mental health workers and social workers. Suggested reasons for this

include higher caseloads; lack of education about the effect of working with traumatised populations; the absence of support, in particular, the absence of multidisciplinary teams and collaborative work practices; the need to be objective, impartial and maintain confidentiality; and the complete absence of debriefing mechanisms built into the process.

Some of the ways in which depression, psychological distress, and vicarious trauma can affect people include:

- profound loss of pleasure in life, whether work, home, family, or leisure;
- impairment of judgment and capacity to think clearly;
- over reliance on traditional coping mechanisms such as alcohol or other substances;
- isolation;
- intellectualising problems, to protect against feelings and emotions;
- working harder, so limiting time to think;
- seeing the world as unsafe;
- loss of trust in self and others;
- disturbed sleep;
- withdrawal from intimacy;
- depression and anxiety;
- compassion fatigue, or burnout;
- decreased motivation, efficacy and empathy;
- post traumatic stress disorder type symptoms: exhaustion, heightened arousal, avoidance, numbness to reminders of

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trauma, re-experiencing of victims' traumatic events.

A number of coping strategies and defence mechanisms are used in other disciplines, apart from eating well, drinking in moderation, exercising and getting sufficient sleep. These include:

- developing resilience: the ability to bounce back after stress;
- adjusting workloads;
- mindfulness;
- promotion of wellbeing, instead of focussing on what is clinically wrong. This can be a challenge for judges, as conscious development of positive emotions is in conflict with the ingrained pessimism which makes lawyers good at what they do;
- writing about emotional upheavals:
 - expressive writing (traumatic, emotional or stressful events);
 - positive writing (joyful experiences);
- systematic self evaluation, using existing or specially modified tools.

These strategies have been shown to assist in converting vicarious trauma into vicarious resiliency, and compassion fatigue into compassion satisfaction.

Armed with this knowledge, we devised our supporting judicial resilience pilot. It must be seen, not as a complete answer, but as one important part of the suite of measures

needed to build resilience, and to better cope with the causes of judicial stress and vicarious or secondary trauma.

The project

The Supporting Judicial Resilience Program was developed as a six-month pilot program, involving 20 judges and four mental health professionals, to engage in one-on-one debriefing, counselling or supervision, in order to enhance individual judges' capacity to manage stress and exposure to vicarious trauma.

The project is administered by a small project team: two judges, the deputy CEO and a project officer. It has built in an evaluation process which is overseen by the Court, but devised and carried out by a candidate for a PhD in psychology, as part of her supervised PhD research into judicial stress.

Although properly described as a pilot, there was a real commitment to roll this out for all judges as part of the Court's acknowledgement of the impact of the work of the Court on judges, and its commitment (indeed, obligation) to looking after the health and wellbeing of judges. There is a clear acknowledgement in this that the courts and the legal profession generally have been slow to recognise the risk to judges, court staff and advocates, from exposure to the nature of the work of the courts. The most obvious, but by no means only area of risk of vicarious trauma, is child sex offences. That

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Judiciary

is an increasing part of the criminal court load. But exposure to an unrelenting caseload of claims by road users and workers unable to resume their pre-injury lives, or even of determining commercial disputes that you know will lose the unsuccessful party their home and life savings, can take its toll too.

Police sexual offence units and centres against sexual assault have long recognised the risk of vicarious trauma, and have regular debriefing sessions. The Australian Federal Police has strict protocols in place for screening potentially vulnerable people, and limiting the exposure of any individual officer or Director of Public Prosecutions employee to child pornography. The bench and bar, those conglomerations of independent individuals, have not had the benefit of institutional experience, or organisational responsibility for identifying and managing risk. But increasingly there is a recognition the work takes its toll, and it is not a sign of weakness or unfitness for the job to acknowledge it. But this is not just about vicarious or secondary trauma. Other work factors, isolation, pressure of decision making and judgment writing, and personal life issues – problems involving parents, partners and children, our own health, must also be taken into account.

Then Chief Judge Michael Rozenes said when launching the pilot:

“Judges, because of the way they work and the company they keep, become isolated, lonely and immersed and enmeshed with their work, which, as you all know, is complex and difficult, onerous and troubling at times. Twenty years ago this conversation would not have been taking place. I encourage all judicial officers to have it now.”

Judges were asked to volunteer, and we had various strategies ready to implement if we had insufficient volunteers, or they were not representative of the mix of judges and work in the Court. But as it turned out, there was no need to tap anyone on the shoulder. We had the range – men, women, older and younger, long serving, mid-term and recently appointed, criminal, civil and commercial judges.

Of the four mental health professionals, all have expertise in dealing with vicarious and secondary trauma. We have a mix of psychiatrists and psychologists, and a mix of men and women. Judges were given the CVs of the four professionals, and information about times and places where sessions

would be conducted. Some were prepared to come to the quiet room at court, others offered consultations in their own rooms. (We set up a quiet room some years ago, a place where staff could go, away from their work stations for time out. It is also used for the monthly on-site counselling sessions available to judges and staff under the judicial and employee assistance programs.)

We wanted a range of experts, to accommodate personal preference, and to assist in the evaluation process. This was important as our discussions with the judges indicated some had a clear gender preference.

Our original idea, based on the model employed in the Coroner’s Court during the Black Saturday bushfires inquest, was to have each judge participate in two sessions, six months apart, to debrief, and reflect about their work and their role. At that stage, we were speaking of counselling, or debriefing, sessions.

The process of approaching experts, explaining the project, asking for expressions of interest and meeting with them to discuss the project was instructive. After consultation with the experts, we kept the start and end sessions, six months apart as our minimum requirement, but added an allowance for up to three more sessions over that period, on an as-needs basis. Their questions about the purpose of the sessions also led us to reframe our purpose as something akin to the supervision psychiatrists and psychologists undertake with their colleagues as a routine part of their professional activities, rather than counselling, or treatment for a mental health problem or condition. It was agreed that treatment for a mental health or other condition was not part of these sessions, and, consistent with the arrangements psychiatrists make if a treatment issue arises in supervision, the judge will be referred to an independent person or organisation if treatment is required.

Although this is more akin to supervision than treatment, it was of course a given that what passed between the judge and the psychiatrist or psychologist was confidential.

Each judge participates in at least two, and up to five one-on-one, one hour sessions with their allocated psychiatrist or psychologist over the six-month period. Judges are encouraged to take the whole day off, in order to give themselves time to reflect on the matters discussed.

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Review

A preliminary questionnaire was provided to judges so they could identify their expectations. A similar questionnaire will be administered at the end of the pilot, and semi-structured interviews will be conducted with the participants and the providers by the researcher in order to evaluate the process as a whole. The results from the questionnaires and interviews will of course be treated in a way that will remove information which could identify individual participants. All judges and providers were fully informed in advance about the evaluation process.

Subject to what we learn from the evaluations, our plan is to embed this as part of our continuing judicial wellbeing program across the Court, so every judge participates in this process every six months.

We also plan to roll out a program on supporting resilience for court staff once the judicial pilot has been evaluated. At present, we are looking at group sessions, rather than one-on-ones. Presentations on vicarious trauma have been made annually at the conferences for associates and tipstaves which run in parallel with the judicial conferences, and plans are well advanced for a segment on vicarious trauma and supporting resilience as part of the induction training for all judicial staff.

Conclusion

My own view is the case for introducing programs and structures to support resilience is overwhelming. We can no longer ignore the evidence of the risk to judges and court staff of vicarious trauma or other consequences of stress. We should not wait for a catastrophic breakdown before doing something about it.

Of course, supervision is just one part of what must be a broader program for looking after our wellbeing – physical, emotional and psychological. Self-awareness and preventative measures – health checks; training in recognising signs of trauma, stress or mental illness; debriefing mechanisms; mentoring programs; and caseload management (monitoring the case mix, the volume of work, amount of judgment writing time and number of reserve judgments) are also important.

These measures will enhance our ability to be good judges, to shoulder the responsibilities, and enjoy the intellectual and other rewards of judicial life. ■

Felicity Hampel SC has been a judge of the County Court of Victoria since 2005. The article is based on a presentation by Judge Hampel at Judging for the Future, the 23rd Biennial Conference of District & County Court Judges of Australia and New Zealand in Melbourne this year.

1. Brain and Mind Research Institute (2009), *Courting the Blues: Attitudes towards depression in Australian law students and lawyers*, Brain and Mind Institute Monograph 2009-1.

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