



Managing Grief

Death and Trauma in the Practice of Law

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*This profession will
break your heart—
perhaps often.*

*Addressing it honestly
is the only healthy
way forward.*



Death permeates the legal profession. Over a lengthy career, we're exposed to it through clients, crime victims, colleagues, and cases. And while we're great at helping our clients, we're terrible at helping ourselves. We forget that exposure to their grief impacts us as well, no matter how impervious or unaffected we may feel.

It may manifest in obvious ways, like sleeplessness, tears, nightmares, obsessive dark thoughts, rage, or exaggerated responses to distressing stories. Or it may be more subtle, like a general loss of optimism or cynicism, compassion fatigue, or emotional numbness.

You may be thinking, "That's just part of getting older." But in fact, the former are signs of secondary traumatic stress; the latter, vicarious trauma—two types of indirect trauma that plague the legal profession.

Secondary traumatic stress, or STS, is the empathic internalization of the suffering of others, causing the listener to feel the speaker's pain. It causes PTSD-like symptoms in people who interact with trauma victims or hear their stories.

Vicarious trauma describes a profound shift in broad personal opinions due to repeated interactions with trauma victims. For example, someone who represents battered women may come to fear all men. Or a sex-crimes prosecutor might decide that all religious leaders are child molesters and abandon his religious faith. It occurs slowly, almost imperceptibly, like water eroding rock.

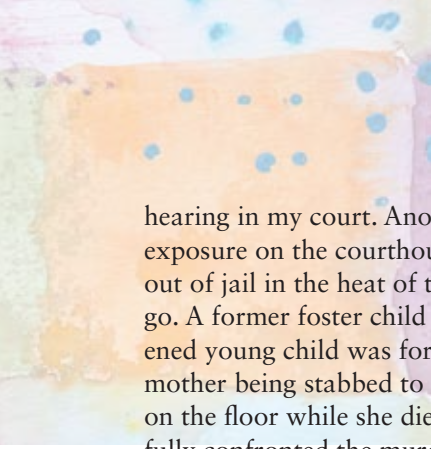
Indirect trauma isn't the only consequence of professional exposure to death. Direct trauma, which describes the pain of *personally experiencing* a traumatic event (rather than hearing about one experienced by someone else), can also result. It's hard to watch someone else suffer. And as if that's not enough, secondary trauma can reach into your past and connect with your own prior traumatic experiences, resurrecting pain from long ago.

And the icing on the cake? Our over-inflated egos make us feel guilty for not preventing the suffering of others, even when it wasn't within our power to do so. With rare exception, over a long legal career, secondary trauma impacts us all, whether we realize it or not.

CRYING IN CHAMBERS

Sure, lawyers are accustomed to dealing with tense situations and emotional people. My legal assistant joked that not a day went by without someone crying in my conference room. Comforting grieving clients on a typical day is hardly noteworthy. But not all days are typical.

In my 23 years serving an ultra-rural community, I confronted secondhand stories of death countless times. A distraught single mother of five hanged herself after a Child Protective Services



hearing in my court. Another young mother died of exposure on the courthouse lawn when she was pushed out of jail in the heat of the summer with nowhere to go. A former foster child committed suicide. A frightened young child was forced to recount watching his mother being stabbed to death and snuggling with her on the floor while she died. A devastated mother tearfully confronted the murderer of her daughter.

I reviewed countless autopsy photos and sexual assault nurse examiners' reports. Day after day, case after case. The list is endless. And each of those took a toll.

But the ones that really stick with you come when you least expect them.

One Monday morning, years ago, an elderly man walked into my court chambers. He looked drained—his eyes dark, somber, and devoid of emotion. He introduced himself as the father of a defendant I'd put on probation and sent to intensive in-patient alcohol rehab a few years prior.

I remembered this old man, always sitting calmly in the front row each time his son's case was called. His son had been an addict, caught up in the criminal justice system his entire life. After getting out of rehab, his son had gotten his life together. He'd stayed sober, gotten a steady construction job, and renewed his relationship with his children, whom he hadn't seen in years. Things were going great.

And then on the prior Friday, he'd relapsed, gotten drunk on a job site, and fallen to his death. This grieving father had driven across the state to tell me face to face. Not to blame me, but to *thank* me.

By putting him in rehab rather than back in prison, I'd shown his son that he was worth saving. That realization motivated him to change his life. This grieving father was grateful that I "gave him back his son, even if only for a short while." He thanked me, shook my hand, and left.

After he walked out, I sat in chambers and cried. I ached for the father enduring the unimaginable loss of a child and thought about what it would feel like to lose my own young son. I hurt for the children and grandchildren who had connected with their father only to have him snatched away again.

I was haunted by the look in his eyes as he told his story. And my faith in the entire system was shaken. I'd done what I could to help him, and he died anyway.

It wasn't a long, emotional jury trial with graphic testimony and weeping witnesses. It was just a quick conversation with an old man who had the best of intentions and didn't shed a tear. But it resulted in my

suffering direct, secondary, and vicarious trauma that lingers to this day.

WHEN YOUR CLIENT'S TRAUMA TRIGGERS YOURS

We've all grieved the death of a close friend or family member. We know those losses in our personal lives are coming, and we accept them as part of life. We grieve and we heal.

But years later, secondary work-related trauma can dredge up that old pain, forcing you to mourn the personal losses all over again. It personalizes others' grief by combining their pain with your own. This merger turns secondary trauma into deeply personal grief.

A judicial colleague of mine suffered a terrible personal loss as a young lawyer. His wife gave birth to a beautiful baby girl who died after only a few days. He and his family were devastated. Years later as a judge, he presided over a custody case involving two young children. After a series of hearings, he granted custody to the father and ordered the mother to turn the children over to the father that day.

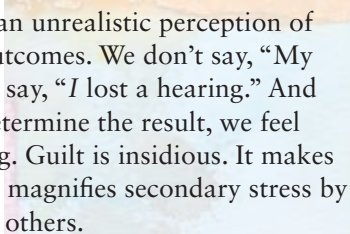
A few days later, my colleague learned the mother went home, grabbed a gun, and killed the children, her live-in mother, and herself. To make matters worse, the massacre occurred close to the anniversary of his own daughter's death. The two events immediately connected in his mind.

His grief over the death of those children merged with his personal grief over the loss of his daughter. To him, it was as if his infant daughter had died all over again. The indirect trauma of the case was magnified by the loss of his daughter so many years before. His grief was immense.

In granting me permission to tell his story, he explained, "Years later, I still haven't recovered. It haunts me every day."

THE GUILT TRIPS YOU'LL TAKE

There's no situation so bad that you can't add a dash of guilt and make it worse.



Lawyers often harbor an unrealistic perception of their power to control outcomes. We don't say, "My client lost a hearing." We say, "I lost a hearing." And because we believe we determine the result, we feel guilty when it goes wrong. Guilt is insidious. It makes bad situations worse and magnifies secondary stress by personalizing the pain of others.

Recently, the father in one of my closed custody cases contacted his former lawyer and asked her to represent him in a new case. The lawyer replied that

she would...*after* he paid his outstanding balance from the prior case. A routine demand for repeat customers.

He chose another path, however. Instead, he killed his wife and himself, in front of her child. A horrific tragedy. When I discussed it with the distraught lawyer the following week, she hinted at blaming herself.

“If I’d had just said yes, maybe they’d still be alive.”

Obviously, she bore no responsibility whatsoever for his actions, and intellectually she knew that. Unfortunately, awareness doesn’t stave off doubt, and the slightest doubt is enough to allow guilt to creep in. She’s incredibly strong and imminently experienced. But she’s also human.

All three of us felt responsible for tragedies we couldn’t possibly have foreseen. The lawyer wondered whether she could have prevented those deaths. I questioned whether putting the alcoholic defendant on probation hastened his death. The judge believed he should have somehow anticipated the risk to the children and prevented their deaths. And those feelings of guilt added to our pain.

PHYSICIAN, HEAL THYSELF

You might not suffer from the acute symptoms of STS. You may “leave work at work” and sleep like a baby every night. But the impacts of work-related trauma aren’t always obvious.

Vicarious trauma can slowly eat at you, leaving you more withdrawn, less optimistic (what we defensively call “just being realistic”), cynical, or caustic. It degrades our attitudes toward life and thus impacts our families. We see it in the eyes of our spouses and on the faces of our children. And hurting the people we love makes us feel—you guessed it—*guilty*.

As a group, lawyers aren’t the best at addressing our own problems. Self-medicating with alcohol is an easy, cheap, and professionally accepted way to “take the edge off,” unwind, relax, or “cut loose.” (“We work hard and we play hard!”)

And it’s effective at suppressing those nagging and unpleasant feelings—at least until we recognize that that “solution” has become part of the problem. Thirty-seven percent of attorneys self-report substance abuse problems—a shocking statistic.

And when self-medicating doesn’t work? Eleven percent of lawyers report considering suicide during their careers. That’s not a typo—more than 1 in 10 lawyers at some point see suicide as a viable solution for professional stress. If you don’t know a colleague who committed suicide, odds are you will.

THERE’S NO SHAME IN BEING HUMAN

My professional interactions with death aren’t remarkable. They may not even be unusual. I’ve been an attorney for only 28 years. Most of you have surpassed 40. You’ve seen a lot of suffering and developed a thick skin.

Maybe you think you’re too strong to be affected like everyone else. To be honest, that’s how I felt when I started working on this article. I believed I’d walled myself off so that I wasn’t impacted by the suffering that swirled endlessly around me. In the process of writing this article, I realized I was wrong.

Whether you feel affected or not, I suggest that we all benefit from introspection. Consider how your experiences may have influenced your shifting views on life. Examine how you treat people around you, both in and out of the office or courtroom. Be honest with yourself about what you see.

But don’t stop there. Ask coworkers and family members about your behavior and attitude. People around you are an invaluable source of reliable information. Empower them to speak freely, without fear of retribution.

Listen. Don’t push back. People who care about you are more likely to see you for who you really are rather than the persona you’re trying to project.

And, finally, remember—it’s not just about *you*. Your co-workers may be in distress. You might think you handle the stress with ease, but the people who care about you—your staff, your spouse, even your children—may be suffering by watching you struggle to do so.

You can reverse the damage by taking action. Try to use your experiences in a positive way. As you plan for the later stages of your career, consider looking for ways to give back. Share your wisdom. Mentor young lawyers. Help those following in your footsteps.

Cut yourself some slack. Let go of guilt and embrace optimism. Don’t look back with “what if.” Look forward toward “next time.” It’s OK to acknowledge that you’ve been impacted by what you’ve seen and experienced. There’s no shame in being human. ■

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