Keeping Legal Minds Intact: Mitigating Compassion Fatigue Among Government Lawyers

By Linda Albert, LCSW, CSAC

What is Compassion Fatigue?
Compassion fatigue is defined as the cumulative physical, emotional and psychological effects of being continually exposed to traumatic events when working in a helping capacity. It has been studied extensively in social workers, nurses, doctors and therapists who work with victims of trauma. Recently researchers have begun to examine the impact on lawyers and judges. Compassion fatigue involves a cluster of symptoms such as, but not limited to, sleep disturbance, anxiety, intrusive thoughts, a sense of futility or pessimism about people, lethargy, isolation and irritability.

Why Are Some Government/Public Sector Lawyers at Risk?
Studies have found that lawyers who work in the field of criminal or family law are considered at higher risk of developing compassion fatigue compared to those who work in other areas of the law. These legal professionals listen day after day to stories of human induced violence. Government and public sector lawyers such as public defenders, prosecutors, legal aid lawyers or other litigators are subject to additional stressors that contribute to compassion fatigue. Often these lawyers have high caseloads, minimal support from supervisors, lack of peer support, excessive paperwork, inadequate resources to meet demands and limited job recognition. Researchers also reported the impact of compassion fatigue upon the work environment as increased absenteeism, impaired judgment, low motivation, lower productivity and high staff turnover.

Practitioners in these types of positions are seldom afforded the time to replenish and restore themselves. Instead they are likely to continue moving forward without the ability to take pause and reflect upon how the work is impacting them physically, emotionally or mentally. One lawyer stated, “I am expected to operate like a machine, often getting notices to be at four places at the same time and go from trial to trial with no regard for what I can reasonably do or what the impact might be on myself as a professional or a person.” Another lawyer expressed, “I am supposed to take it all in and not be affected by it; it’s like mental battering.”

Lawyers are expected to maintain a professional demeanor and therefore refrain from showing emotion. They are supposed to remain detached from the situations and people they encounter every day. It is assumed that they will not be personally impacted by the jobs they perform. However, these lawyers may have physiological reactions such as increased heart rate, breathing rate and muscle tension. They can have emotional
responses such as sadness, anger or fear. Often lawyers will be unaware of these reactions or ignore or dismiss them as unimportant. If left unchecked and unattended, these reactions wear on the mind and the body resulting in the above mentioned cluster of symptoms known as compassion fatigue. The results can be varying degrees of impairment for the attorney.

What Can Public Sector Legal Offices Do?
A review of the literature suggests that organizations that employ government lawyers first and foremost need to recognize and acknowledge that compassion fatigue exists and identify how it impacts the lawyer and the organization. Prevention strategies include reducing caseloads and providing training to educate staff about compassion fatigue and what they can do to prevent it. With the current economic climate, it can be difficult to implement these changes. However, in the long run, it is imperative that offices take a roll in reducing the toll compassion fatigue can take on staff.

What Can Legal Professionals Do?
Government lawyers should be proactive in recognizing compassion fatigue in themselves and their colleagues. Strategies to mitigate symptoms include:

- **Debrief.** Talk on a regular basis with another trusted, supportive colleague who understands your situation. Talking about the traumatic issues allows lawyers to acknowledge how they are personally affected by them.

- **Adopt Balance.** Establish a healthy diet, sleep and exercise program. Exercise and relaxation can be extremely beneficial in counteracting the symptoms. Think of ways to simplify, to do less, or to ask for help.

- **Be intentional.** Put a plan in place for change. Intentionally seek assistance to help yourself implement the plan. Try not to think, “I should be able to do this by myself.” Your new mantra can be, “I don’t have to do it all by myself.”

A Vital Resource: Lawyer Assistance Programs
Help is available through local Lawyer Assistance Programs (LAPs). LAP programs understand the specific stressors faced by judges and lawyers. They can assist in putting together a plan to mitigate compassion fatigue, work on an organization level or find local resources. These programs are confidential and specialize in assisting legal professionals with many challenges or conditions that can impact a lawyer’s ability to practice law competently. Early intervention is the key to best outcomes.

Visit your state bar’s website or www.americanbar.org/groups/lawyer_assistance.html for more information on the many outstanding programs available throughout the nation.

Linda Albert is a licensed clinical social worker and a certified alcohol and drug counselor with the State Bar of Wisconsin as the WisLap Coordinator. She received her master’s degree from UW-Madison in social work. She has professional assessment/treatment/referral competencies in the areas of addictions, eating disorders, depression, anxiety, trauma and illness impacted by stress. Albert has worked over the past 25 years as an administrator, consultant, trainer and psychotherapist in a variety of settings including providing services to impaired professionals. She has done multiple presentations for conferences at the local, state and national level. This article was adapted from one which appeared in the Wisconsin Defender.

References
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Survivors Should Know When Working with Trauma


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Diverse Speakers Database
You’re invited to be among the prestigious charter group of diverse lawyers featured in the upcoming ABA Diverse Speakers Database. The ABA Diversity Center is calling for lawyers in all practice areas that have an interest in speaking and program moderating opportunities, to enter their information into the database. This national clearinghouse of legal experts will be an invaluable resource for program organizers and decision-makers in the ABA—and other bar associations—who seek diverse presenters from a race, ethnicity, gender, sexual orientation/gender identity, and disability perspective. The debut of the database is scheduled for Fall 2012. To create your database profile, complete the short online form at http://ambar.org/DiverseSpeakers.


What an honor it is to serve as the chair of this Division. Since 1998, I have served as the Senior Administrative Law Judge (ALJ) for the Colorado Office of Administrative Courts, an independent central panel of ALJs. I was Chief ALJ from 1983-1998. Before my appointment as an ALJ, I served as a Colorado Assistant Attorney General and as Deputy State Public Defender. I also teach administrative law at the University of Denver, Sturm College of Law. I have been a government attorney for almost my entire professional life.

I have been actively involved in the ABA for many years. Prior to my service as a GPSLD officer, I served as chair of the ABA’s National Conference of the Administrative Law Judiciary (2000-2001). From 2006-2009, I served on the ABA Standing Committee on Ethics and Professional Responsibility and I was GPSLD Ethics Committee Chair from 2007-2011.

I have found my involvement with this Division truly enjoyable and worthwhile. I have made so many friends and gained a greater understanding of the profession through my interactions with a diverse and vibrant group of public lawyers.

I am very excited that the Division’s Fall Meeting will be held in the beautiful city of Boulder, Colorado. We will be partnering with the Boulder County Bar Association and the Colorado Bar Association to present our Ethical Considerations in Public Sector Law CLE on October 19. Go to www.governmentlawyer.org to register (click on “Events and CLE”).

I am looking forward to a terrific year. As always, if you have suggestions, ideas and even critiques, feel free to contact me through the Division offices at GPSLD@americanbar.org.

Edwin L. Felter, Jr. Chair, 2012-2013

The ABA Military Pro Bono Project connects junior-enlisted, active-duty military personnel and their families to civilian attorneys who provide free representation for civil legal issues beyond the scope of services provided by military legal assistance offices. The Project accepts case referrals from military legal assistance attorneys (i.e., JAG attorneys) across the country and around the world, and connects these service members with pro bono attorneys throughout the United States. The Project also includes Operation Stand-By, through which attorneys may volunteer to provide lawyer-to-lawyer consultations to military attorneys in need of information on substantive or state-specific legal issues. For more information or to register as a volunteer with the Project, visit www.militaryprobono.org.

www.governmentlawyer.org
A young attorney in my office often comes to me with questions and for advice. After I help her, she usually smiles, says “OK” and gets up and leaves. Sometimes she texts me with questions. She never actually thanks me for my assistance. Although I don’t mind helping her, I find her behavior unprofessional and insulting. Should I say something to her?

Your question highlights the different communication styles between the generations. Yes, these differences can be annoying. However, if you treat this as a valuable mentoring opportunity, it could be very helpful to the attorney and to your office.

In the past, new employees focused on learning how to operate within the established norms of the office environment. If the boss preferred to obtain updates in person rather than via email, meetings were held. If the boss wanted a one-page summary, followed by a detailed memo, that’s the format staff adopted. This protocol seems to have been lost on the current office newbies. Many of them were raised to believe that offices are democracies and their vote has equal weight with the votes of more seasoned veterans—or even with the vote of the boss! So, how do you deal with her behavior that you perceive as an “attitude” problem?

This attorney probably has no idea that her behavior is perceived to be rude or unprofessional. She probably sees herself as a “go-getter” and views you as a trusted friend and equal despite the differences in your positions and experience levels. You are probably sending out vibes that you are knowledgeable and approachable. Take advantage of this by making it clear to her that you are actually serving as her mentor. Perhaps you could say “I’m glad you’ve been coming to me for help—I’m happy to mentor you while you learn the ropes.” Then start using the techniques that mentors use to foster development and growth:

- Listen attentively as your mentee lays out the issues
- Ask questions that help your mentee to analyze the situation critically
- Help him or her scope out research that needs to be conducted
- Encourage him or her to develop alternative solutions
- Offer examples of similar situations that you’ve encountered that are relevant

Notice that this technique shifts the process from one in which the attorney asks you for the answer to one in which they learn how to locate it for themselves. It’s important to adopt a tone that emphasizes that you value her ideas, contributions, and enthusiasm, while also trying to instill in her the importance of basic office etiquette.

Once your relationship is established, provide more subtle pointers for succeeding in your office. Emphasize the importance of demonstrating appreciation to someone who offers assistance. Share some of your insights about the styles of the office leaders. Make sure that she understands that common office courtesies, while simple, are vital to career success. It’s likely that with your help, she will develop into a valued member of the office. And in the process, you will have learned some valuable supervisory techniques.
Division Delegate Report

By Darcee Siegel and General E.E. Anderson

The House of Delegates met in Chicago during the Annual Meeting on August 6 and 7, 2012. The following is a summary of House action. To see a listing of all the reports addressed by the House, go to www.americanbar.org/groups/leadership/2012_chicago_annual_meeting.html and click on the Daily Journal link.

Highlights
President Bill Robinson spoke regarding the crisis of our courts as no access, no justice. An independent court system is the key to a constitutional democracy, which is the key to the guarantees in our Constitution. Incoming ABA President Laurel Bellows’ message was that lawyers matter. She spoke about three initiatives for the upcoming bar year. Her first focus this year is to fight human trafficking and bring uniformity to anti-trafficking laws. This year Bellows will also focus on gender equity and national cybersecurity issues. Lastly, Bellows announced that two former Presidents, Steve Zack and Bill Robinson will co-chair a new Task Force on the Adequate Funding of the Legal Profession.

Acclaimed civil rights lawyer Morris Dees received the ABA Medal. You can view his very inspirational speech here: www.abanow.org/2012/08/civil-rights-icon-morris-dees-receives-aba-medal/. Darcee Siegel is the City Attorney for North Miami Beach. She was the Division’s chair in 2007-2008. General E.E. Anderson (United States Marine Corps, ret.) was chair from 1994-1995. Both serve as the Division delegates.

Cosponsorship
The Division cosponsored one resolution, Report 107 which urges governments to review child sexual abuse statutes of limitations to determine if extensions are warranted. This passed with amended language.

Other Resolutions of Interest
The most debated resolution was Report 10A. It would have reaffirmed the policy prohibiting the sharing of legal fees with non-lawyers and the ownership or control of the practice of law by non-lawyers. The House was urged to defeat this resolution as it would have a chilling effect on the work of the 20/20 Ethics Commission. After a contentious debate, the House voted to postpone 10A indefinitely.

Report 112B was approved. It urges attorneys, judges and bar associations to help identify fetal alcohol spectrum disorders through training for individuals involved in child welfare and the criminal justice systems.

Report 100 passed, urging legislative bodies and governmental agencies to adopt breed-neutral dangerous dog laws and to repeal any breed discriminatory or breed specific provisions.

A series of resolutions addressed changes to the Model Rules. All were approved, several with amended language.

- Report 105A-updates Model Rules 1.0, 1.6 and 4.4 and comments to Model Rules 1.1 and 1.4, providing guidance regarding lawyers’ use of technology and confidentiality.
- Report 105B-updates Model Rules 1.18 and 7.3 and comments to Model Rules 7.1, 7.2 and 5.5 regarding lawyers’ use of technology and client development.
- Report 105C-updates Model Rules 1.1, 5.3 and 5.5, providing guidance when retaining or contracting with other lawyers (i.e. outsourcing).
- Report 105D-adopts the Model Rule on Practice Pending Admission, and amends the comment to Rule 5.5, enabling lawyers to practice in a new jurisdiction while the lawyer actively pursues admission through one of the procedures that the jurisdiction authorizes.
- Report 105E-amends ABA Model Rule for Admission by Motion to allow lawyers to qualify for admission by motion at an earlier point in their careers than the current rule allows.
- Report 105F-amends Model Rule 1.6 and the comments to Model Rule 1.17 to provide guidance regarding the detection of conflicts of interest when lawyers move from one firm to another, firms merge or there is a sale of a law practice.

Also approved were Reports 107B, C and D. Report 107B urges prosecutors to fulfill their traditional prosecutorial functions, protect the public through the use of a broad spectrum of strategies and urges increased funding for prosecutors. Report 107C urges defender organizations and criminal defense attorneys to address clients’ interrelated criminal, civil and non-legal problems. Report 107D urges Congress to amend existing law requiring a federal district court to review de novo claims of ineffective assistance of counsel by petitioners in death penalty cases.

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2012 Annual Meeting Election Results

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Affiliated Organization Representative
Mee Moua
President and Executive Director
Asian American Justice Center
Washington, DC

ABA Entity Representative
Deborah Mastin
Assistant Broward County Attorney
Fort Lauderdale, FL

Honor a Public Lawyer or Public Law Office

The Division is accepting nominations for its three national awards which will be presented at the ABA’s Annual Meeting in August 2013 in San Francisco. The Dorsey Award recognizes exceptional work by a public defender or legal aid lawyer; the Hodson Award is presented to a government or public sector law office (not an individual) that has demonstrated sustained, outstanding performance or has performed a specific and extraordinary service; and the Nelson Award recognizes outstanding contributions to the ABA by a public lawyer. One of the main purposes of the Division’s awards program is to highlight the often-overlooked achievements of our nation’s public lawyers.

Take advantage of this opportunity to recognize the outstanding efforts of a public law office or individual public lawyers and help publicize some of the extraordinary work being accomplished in the public sector.

See www.americanbar.org/groups/government_public/awards.html for nomination requirements. Nominations must be received by the Division by April 8, 2013. To obtain a nomination brochure, call Kiren Jahangeer at 202-662-1023 or email her at Kiren.Jahangeer@americanbar.org.

New Email Preference Center
Take control of your ABA email by visiting http://ambar.org/preference.

ABA members can now choose one or any combination of the three following options:

1. Receive email from your Sections, Divisions, Forums and ABA Membership
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Prosecuting Attorney, New York Attorney General, Albany, NY
The Office of the New York State Attorney General’s Organized Crime Task Force (OCTF) is responsible for investigating and prosecuting multi-county, multi-state, and multi-national organized criminal activities occurring within New York State. OCTF specializes in identifying emerging and existing organized criminal enterprises and, through a broad array of civil and criminal enforcement techniques, seeks to undermine their structure, influence and presence within the state.

Successful applicants will, among other tasks, present evidence to grand juries, conduct computer database research, issue subpoenas, review documents, interview witnesses, supervise undercover investigations, conduct legal research, write search warrants and/or eavesdropping warrants, evaluate case potential, and conduct evidentiary hearings and trials in New York State courts. Applicants for prosecutorial positions should have substantial grand jury and trial experience that preferably includes the investigation and prosecution of financial crimes and the ability to work with investigators, analysts, and outside agencies. Experience drafting and overseeing the execution of search warrants and eavesdropping warrants is a plus. Applicants must have a minimum of three years of practice experience, and reside in (or intend to soon become a resident of) New York State.

Submit: cover letter, résumé, three references, a recent writing sample and law school transcript, if less than 5 years post-graduate. Email submissions preferred. Please indicate Reference No.(OCTF_AAG_ALB_2012) and position in your cover letter.

Contact: Sandra Jefferson Grannum, Esq., Bureau Chief, Legal Recruitment Bureau, Office of the New York State Attorney General, 120 Broadway, New York, NY 10271 or recruitment@ag.ny.gov.

Clean Energy Attorney, EarthJustice, Oakland, CA
The Clean Energy Attorney will lead a program that develops, coordinates and pursues litigation and other strategies to promote the development and implementation of clean energy policies and practices around the country and to defend such policies from industry attacks. The Clean Energy Attorney will develop strategies with client partners in key states selected based on the prospects for moving toward a low-carbon, smart grid that integrates renewables, manages demand, and enhances efficiency. The attorney will actively litigate and oversee and partner with other Earthjustice and outside attorneys to implement strategic litigation and advocacy to promote clean energy; integrate and align our clean energy work with our programs to reduce the use of dirty energy; work with partners to defend state and regional clean energy initiatives against legal attacks; monitor and help defend against international trade challenges to clean energy initiatives; and engage in advocacy and litigation with respect to FERC policies and directions that can move the nation toward a smart, low-carbon grid. Minimum of 10 years experience including leadership and management experience required. Knowledge and experience in energy law preferred.

Submit: cover letter and résumé to jobs@earthjustice.org. Please include “Clean Energy Attorney” in the subject line.

Senior Staff Attorney for Education, Southern Poverty Law Center, Montgomery, AL
The Southern Poverty Law Center is dedicated to fighting hate and bigotry, and to seeking justice for the most vulnerable members of our society. Our Legal Department focuses on cases involving the rights of children, prisoners, immigrants, the LGBT community, victims of hate crimes, and issues affecting economically disadvantaged communities. This position will focus principally on our work relating to education issues. Six or more years of experience with a focus on rights in educational settings preferred as is fluency in Spanish.

Submit: cover letter, résumé and references to https://home.eease.com/recruit/?id=2397341.

Staff Attorney, ABA Commission on Domestic Violence, Washington, DC
The Commission on Domestic Violence is the only national organization that focuses exclusively on improving the legal response to domestic violence, sexual assault, and stalking. The Commission addresses the acute need to increase the number of well-trained and supported attorneys providing representation to victims by: (1) providing in-person, web-based, and telephonic technical assistance and continuing legal education opportunities for attorneys, law students, and allied legal advocates; (2) advocating for full-funding for the Violence Against Women Act and other federal legislation increasing and improving services and support for victims of domestic violence; (3) collaborating with other entities and national organizations to improve the systemic legal response to domestic violence. To learn more about the Commission and its activities, please visit our website at http://www.americanbar.org/groups/domestic_violence.

Submit: email cover letter and résumé
Contact: Rebecca Henry, 202-662-1737, Rebecca.Henry@americanbar.org, 740 15th Street NW, Washington, DC 20005
Division Fall Meeting
October 19–20, 2012
Boulder, CO

Friday, October 19
Ethical Considerations in Public Sector Law CLE
University of Colorado at Boulder Law School
Visit www.governmentlawyer.org (click on “Events and CLE”) to register

Saturday, October 20
Council Meeting

Records Management: Best Practices for Government Attorneys
Teleconference CLE
November 2, 2012
1:00 EST
Go to www.governmentlawyer.org for more info or to register

Videotaping Police Actions: Wiretapping Laws and the First Amendment
Teleconference CLE
December 4, 2012
1:00 EST
Go to www.governmentlawyer.org for more info or to register

ABA Midyear Meeting
February 6–12, 2013
Dallas, TX

GPSLD Events
Friday, February 8
CLE Programming

Saturday, February 9
Council Meeting