

News

The often hidden and deep costs of caring

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A Crown prosecutor in British Columbia oversees a child pornography trial that involves reviewing more than 200 pornographic images. It is his third such case in five years. A family lawyer in Ontario represents a father accused of domestic violence. The ex-wife describes in graphic detail the violence she has experienced at the hands of her former husband. The lawyer will go on to defend four other men accused of spousal abuse in the next 12 months.

The defendants will go to jail or they will go home. Their lawyers and the judges, however, will often exit the courtroom with the very painful and explicit images they've seen and the testimony they've heard seared into their memory. The weight of such memories can become physically draining and emotionally devastating. It can become vicarious trauma.

Unlike burnout, which happens when lawyers are mentally and physically exhausted, vicarious trauma results from helping people and taking to heart and mind their pain and suffering. "With vicarious trauma, you develop symptoms similar to those your clients have experienced. This includes nightmares and insomnia. You may start drinking to cope. You may lose your faith in humanity or God," said Peter Jaffe, founding director of the Centre for Children and Families in the Justice System in London, Ont.

At particular risk are lawyers and judges who work in criminal and family law. The former can involve high-profile, violent cases with hundreds of photos. One lawyer who reviewed the tapes used in part to convict serial killer Paul Bernardo said she looked at the images nine times but "a million times in my head."

In the 2000 obstruction of justice case, *R. v. Murray*, that included videotapes of two young girls being unlawfully confined and sexually abused, "Everyone exposed to the videotapes has been deeply affected by the experience," Ontario Superior Court Justice Patrick Gravely wrote in his decision. One lawyer wept while reviewing the tapes described as "caustic," "corrosive" and "shocking," and even the defence counsel, Justice Gravely added, "who must in his career have been exposed to almost everything terrible the court system has to offer, was obliged to request a brief adjournment in the course of reading in some of this evidence."

For family lawyers, the issues

are often more private but no less brutal, invasive, and distressing.

"Imagine preparing a case and looking at thousands of images and getting deeply affected every time," said Donald Murray, a criminal defence lawyer with Sealy Cornish Coulthard in Dartmouth, N.S., who has written and spoken about vicarious trauma to lawyers across Canada.

In an effort to cope with a burden that can build precipitously over time, lawyers and judges will often turn inward or rage outward. They may rely on alcohol or drugs. They may take more time away from work, and they may stop caring.

There is a personal toll, and there may be a professional one, noted Murray, co-author of *Vicarious Traumatization: The Corrosive Consequences of Law Practice for Criminal Justice and Family Law Practitioners*, which he presented to the CBA- Nunavut branch. "One coping mechanism is to focus material away from the difficult images and subject matter. That may or may not be to the benefit of the client or the case."

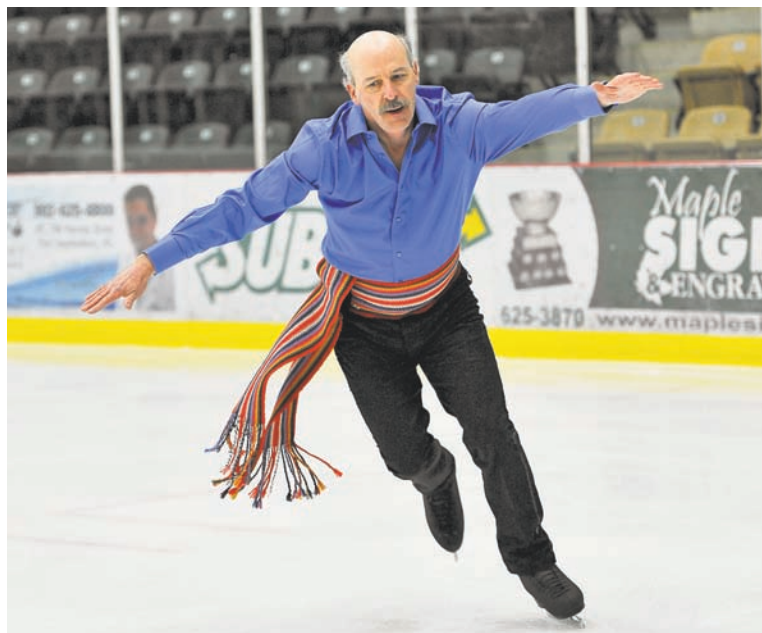
The condition, also known as compassion fatigue, is well documented in the "caring" professions: first responders, physicians, social workers. Now it is becoming increasingly evident among the legal profession — although a veil of silence remains. Vicarious trauma rates among U.S. attorneys are almost five times higher than for other professions, according to some research. In *Vicarious Trauma in Judges: The Personal Challenge of Dispensing Justice*, Jaffe and his co-authors found that more than 63 per cent of judges studied experienced short- or long-term symptoms.

"It's a real issue, but traditionally the profession hasn't talked about it," said Jaffe, a professor in the Faculty of Education at the University of Western Ontario and the academic director of the Centre for Research and Education on Violence Against Women and Children.

The silence is tied to both the personalities of many lawyers and the presumed tenets of the profession. "[Lawyers] understand this work can affect them, but lawyers are an interesting breed. They think the rules don't apply to them. They feel immune," said John Starzynski, president of the Mood Disorders Society of Canada in Kitchener, Ont.

Their training reinforces that belief, he added. "From the first day of law school, you're given the message that you're special and that your clients come first. You come second."

Second place can be dangerous



Murray uses competitive figure skating as an outlet to battle stress.

to your health. The first step to understanding and addressing vicarious trauma is acknowledgment. Simply being aware there is a problem is essential, said Jaffe. "In the legal profession, that can be a big breakthrough."

The profession is starting to address the issue. Over the last several years, presentations on the topic have been held as part of conferences or CBA branch meetings. The CBA's Legal Profession Assistance Conference

has also prepared *The Cost of Justice: A Desk Manual on Vicarious Trauma*.

For individual lawyers and judges, the path to prevention and to improved health is personal. "Do something different that gives you a sense of reward and accomplishment. Playing a musical instrument or art can be very therapeutic," said Murray.

Physical activity is another way to inoculate oneself. "That relieves stress and tension, and it gives you a different focus," said Murray, for whom release comes on the edge of a blade. For more than a decade, Murray has been an avid competitive figure skater and in 2011, he took home the silver medal for Canada at the International Adult Figure Skating Competition in Germany.

The good news is that vicarious trauma does not have to triumph. "You can manage it," stressed Murray. "It may be terrifying and it may be cumulative, but you can do [this job] for 20 or 30 years. You learn how to cope."

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