

Moral Injury and Judicial Leadership...what is the risk?

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- Why is this important
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- Judicial officers and vulnerability to moral injury



Judicial institute trauma training



Why is it important to consider moral injury?

- Role in societal change
- Set tone for courts
- Need for sound judgement
- Ethically complex
- High moral stakes
- Influence legal change
- Public figures
- They are human





The story so far

- Lady Dorrian paper
- NHS Education Scotland –Justice Framework
- Carley Shrever
- Scottish Child Abuse Inquiry

A portrait of Lady Dorrian, a woman with blonde hair, wearing a white top and a red sash. The image is partially obscured by a large red circle on the left and a purple dashed line on the right.

Lady Dorrian

- *“Trauma-informed training... should be required of Sheriffs who conduct referral proceedings, SCRA and SCTS staff, and practitioners appearing in these proceedings specifically solicitors, solicitor advocates and counsel.”*
- *“The Lord President, and the Judicial Council for Scotland, with whom responsibility for the welfare of the judiciary lies, regard the wellbeing of the judiciary as vital to the delivery of justice in courts and tribunals. It is recognised that effective welfare, guidance and support are essential elements of the judicial culture in Scotland.”*

Carley Shrever

2021

- Explored factors relevant to work-based stress
- Alcohol use high but seen as occupational hazard, not stress-related
- Lawyers and lower court judiciary are more vulnerable than higher level officers
- Attributes to lower levels of autonomy, less experienced legal representation, fewer admin supports, fewer collegiate supports, high volume cases





Building organisational resilience in SCAI

- Trauma-informed practice **must** be systemic
- In-house psychology
- Experience of legal systems
- Better evidence and high attendance
- Pick your battles
- CPD incentive
- **Senior leadership advocacy**





New direction - trauma
training for senior judiciary



Judicial Institute Training

- “Judges must model fairness, impartiality, patience, dignity, and courtesy to all with whom they come in contact, in contrast to the often rough-and-tumble environment that constitutes the courtroom.... How can they balance the need to be human and engaged in their work with the need to maintain professional distance?” Jaffe et al




Does presiding over serious offences
prosecution place judicial officers at risk of MI?

Moral Injury.....

- ‘perpetrating, failing to prevent, or bearing witness to acts that transgress deeply held moral beliefs and expectations’ Litz et al 2009
- internal moral conflict
- high-stakes situations, beyond our control, broken system
- *Moral injury is present when (i) there has been a betrayal of what is morally right, (ii) by someone who holds the legitimate authority and (iii) in a high-stakes situation’*





...or moral
distress?

- “The main difference between moral distress and moral injury is that moral distress represents a form of situational problem (due to the external or internal constraints), while moral injury represents an experience of the problem that results in a long-lasting change to an individual’s sense of losing hope, trust, integrity and so on.”

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Risk factors

- Exposure to the worst of human behaviour
- Complicated decisions
- Life changing decisions with broad impact
- Isolation
- High moral load
- High stakes
- High case load
- Public scrutiny
- Potential legal scrutiny
- Limited resources
- Variable autonomy





Protective factors

- Differentiation self and role
- Peer support
- Personal support
- Financial security
- Age
- Experience
- Clearer boundaries
- Ability to process

Judicial officer training

Who...
High Court
Judges,
Senators
and
Sheriffs

What...
Psychology of trauma.
Empathy reactions.
Building resilience



Building resilience

- Understand the impact of trauma at evidential and personal levels
- Acknowledge the potential
- Recognise the warning signs – psychological, behavioural and physical
- Find distractions and diversions
- Create “airlocks”
- Keep clear boundaries
- Take breaks
- Seek support and check-ins– Rivers’ centre
- **Establish supportive networks for safe reflection**



Impact and feedback

- **“Very helpful information, particularly about re-traumatisation and the steps the judge can take to seek to avoid or minimise it.”**
- *“I don't envy the last cases to appear in front of me after a heavy day in court...they do not get the best of me”*
- *“The issue of how exposure to evidence concerning traumatic events, or simply to high-pressure, intensive periods of work, might impact adversely on judges has traditionally been a neglected area, which was explored and illuminated very clearly by this presentation and the supporting pre-course reading material, which would have resonated with all”*
- *I had never previously occurred to me that a judge might suffer trauma vicariously”*



Does presiding over serious
offences prosecution place
judicial officers at risk of MI ?

A solid yellow right-angled triangle is positioned in the bottom right corner of the slide, pointing towards the top-left.

We don't know

- Unknown numbers in seeking help
- “Masculine” culture
- New awareness of trauma impact
- But let's assume yes....





“Build it and they will come”

- Find outcomes that are important
- Reflect values of the individuals
- Understand the culture
- Whole system approach
- Open participation and advocacy from leadership
- Consistent psychology presence

The background features a complex network of thin, light-colored lines connecting various nodes. The nodes are represented by circles of different sizes and colors, including shades of blue, teal, yellow, red, and purple. Some nodes have internal patterns like stripes or concentric circles. The overall aesthetic is modern and digital.

Thank you

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References

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