

# FATALITY REVIEW BULLETIN

The Fatality Review Bulletin is a publication of the National Domestic Violence Fatality Review Initiative (NDVFRI). NDVFRI provides technical assistance through annual conferences, teleconferences, newsletters, customized information packets, fatality review team training, and other types of technical assistance on an as-needed basis. NDVFRI works closely with other leading domestic violence organizations to provide support and information for their fatality review work. NDVFRI is sponsored by The U.S. Department of Justice Office on Violence Against Women, grant number 86604788.

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## National Domestic Violence Fatality Review Initiative

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### Compassion Fatigue and Vicarious Trauma in Court: A Judge's Perspective

**By Michael A. Town, Circuit Court Judge, State of Hawaii**

*The author is on the advisory board of the National Domestic Violence Fatality Review Initiative. He has been a judge since 1979. During that time, he sat as a trial judge in Honolulu's unified family court and heard a wide variety of cases involving families and children. He served as the senior or presiding judge of that court from 1994-97. He currently hears felony cases including domestic violence felonies. He speaks and writes for the National Council of Juvenile and Family Court Judges on domestic violence, prevention, therapeutic and restorative justice, the unified family court, and problem-solving courts.*

#### **Introduction: Is Compassion Fatigue an issue for Judges?**

*Compassion fatigue in judges is the result of vicariously becoming worn down from hearing and deciding cases where people have been physically and emotionally injured, hospitalized, and at times killed.*

How do you deal with it? Isn't it depressing? Doesn't it eventually get to you? Judges are asked these questions regularly. Folks know that most judges hear a variety of cases which are emotional, sad, and at times, profoundly tragic. At the beginning of my judicial career, my response to such questions was that I not only enjoyed my job, but found it important and interesting work. While that is certainly true, there is more. A recent study suggests that these cases involving child custody, divorce, child abuse, mental illness, homicide, and domestic violence affect us in many ways. At times these cases resonate within us and can wear us out. Some judges, however, thrive on the energy of the courtroom and the issues and emotions generated. These judges serve for many years and find being a judge not only a true calling but engaging and rewarding.

This article is about compassion fatigue and whether it is a real and palpable phenomenon for judges. And, if it is for those of us who wear the black

*(continued on next page)*

### **In This Issue**

Pages 1-4  
Compassion Fatigue and  
Vicarious Trauma in  
Court: A Judge's  
Perspective

Pages 4-5  
2003 National Domestic  
Violence Fatality Review  
Conference

Page 5  
Conference Photos and  
New Publications

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robes and are surrounded by the accoutrements of our office, how must it be for the advocates, counselors, shelter workers, attorneys, and other court staff? What is it like for the broader communities who participate as litigants, jurors, and witnesses and hear the same evidence?

There is a substantial body of literature on compassion fatigue in social workers, police and emergency relief workers. Interestingly enough, there is precious little written on the effect these cases have on the lawyers and judges who hear them. When I was asked by Dr. Peter Jaffee to contribute to an article about a study involving compassion fatigue and vicarious trauma in judges, I readily agreed. I am glad that I did. The process of collaborating and coauthoring the article with two psychologists and an experienced family law attorney provided me with insight and respect for the phenomenon of compassion fatigue in judges. I also came to respect those resilient judges and justice professionals who not only persevered but thrived in this often-stressful environment.

### **What is Compassion Fatigue and what are the symptoms?**

Compassion fatigue in judges is an emotional wearing down stemming from hearing about and dealing with situations where people have been physically and emotionally injured, hospitalized, and at times killed. These are litigants who suffer on our watch, so to speak. These cases have a way of creeping into our lives and this is only natural if the judge cares about and is engaged in his or her work. For most judges, the volume and nature of the cases can be overwhelming at times. Indeed, one tough case with a bad outcome can be devastating. Most of my colleagues can clearly recall a profoundly tragic case even though it occurred years ago. These often widely reported cases can be a test of our resiliency or capacity to bounce back individually and professionally.

The symptoms of compassion fatigue in judges are fairly predictable. Some judges reported internalized symptoms including sleeplessness, eating disturbances, increased anxiety, depression, and hyper vigilance. Others reported external symptoms including becoming increasingly angry, irritable, and intolerant of others. Some judges reported increased fearfulness and security consciousness along with an inability to make prompt decisions (procrastination). Other judges reported increased difficulty concentrating while others felt ambivalent and anxious about critical decisions that were close calls. While most people experience one or more of these emotions or behaviors at some point in their lives, the frequency and acuity of the symptoms seem to elevate when we are responsible for the lives, safety and well-being of others. Of great interest to me was our finding that compassion fatigue seems to peak at the seven-year mark during the judge's tenure. Efforts to address this well before the seven-year mark are obviously in order.

### **The Study: What does it say?**

This may be one of the first studies of compassion fatigue and vicarious trauma in judges. My colleagues surveyed more than 500 judges attending various domestic violence conferences across the country regarding the effect their court calendars had on them. One hundred and five (21%) judges responded (54% male and 46% female) and the results were noteworthy and disconcerting. Sixty six (63%) of the judges reported one or more symptoms identified as work-related compassion fatigue. Judges with seven or more years of experience reported higher levels of externalized symptoms such as anger or hostility. Interestingly, female judges reported a greater incidence of compassion fatigue including internalized symptoms (73% female judges versus 54% male judges). Seventy seven (73%) of the judges reported one or more coping or prevention mechanisms including personal, professional and social strategies. The judges who participated averaged 51 years of age and averaged 10 years of judicial experience. Eighty five (81%) of the responders heard some criminal cases, with 54% hearing domestic relations and civil court work, and 30% hearing some juvenile court matters as well, totaling more than 100% due to varied or mixed calendars. The data invites thoughtful discussion and hopefully some substantial follow-up. The complete study and article will appear in the Fall 2003 issue of the Juvenile and Family Court Journal.<sup>1</sup>

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### **What are effective prevention and coping strategies?**

As discussed, 73% of the judges reported some effective coping strategies beyond what some jokingly referred to as “golf and alcohol” at the end of the day or work week. Some of these strategies are obvious and others more subtle. On a personal level judges found that physical activity, rest, relaxation, and positive social contacts were most helpful. Others found professional improvement quite important. Examples might include regular professional education and reading, collegial gathering and discussions including ongoing mentoring sessions. Some judges found that writing articles, sitting on judicial improvement committees, and public speaking about the judiciary were ways to channel their energy constructively. Ironically, we as judges seem to take responsibility for our personal lifestyles, but may have difficulty with external factors out of our control, including judicial administration and normal family milestones or developments. Interestingly, our spouses or partners report that we suffer more symptoms than we are willing to self-report.

Colleagues from around the country tell me that poorly run courts, inefficient judicial administration, and systemic glitches not only hurt judicial morale but can exacerbate compassion fatigue. Judges want some assurance that what they do has built-in safety protocols, checks and balances, and they are not simply winging it. By building in redundancy measures or contingency plans in high-risk cases, judges might have more confidence in what they do. One example in my view would be the emerging practice of domestic violence fatality reviews. These reviews can be an essential part of normal systemic reviews and improvements, as is the case in hospital administration with morbidity and mortality reviews. It seems obvious that improving litigant safety will improve judicial morale and reduce future compassion fatigue.

Our study suggests that judges follow the ABCs of compassion fatigue prevention and avoidance: (1) awareness; (2) balance; and (3) connection. In my view, awareness is the most critical factor because we have all seen professionals, including judges, who work long hours, who have a cluttered office and car, and little or no time for typical pursuits. Often, poor physical health and a problematic family life accompany this. Can we leave work by 5:00 P.M. on a daily basis? Does our work occupy our waking thoughts? Do we regularly take files home? Do we have healthy outside interests? In short, have we established both personal and occupational work boundaries?

Balance and connection are equally important as judges attempt to build resiliency into their lives. Judges find strength in their communities, their cultures, their faith, their colleagues, and their families. A healthy sense of humor seems helpful. Of particular interest to me after more than 23 years on the bench are effective communication skills. Being an active listener and

***"Balance and connection are equally important as judges attempt to build resiliency into their lives."***

gently confirming the factual positions and emotional stances of the witnesses, attorneys, and litigants assures us that we continue to be engaged in truly listening to discern a fair outcome. Judges who develop their own unique style and voice, which is both authentic and effective, appear to be more satisfied over the long term. Being positive, civil and courteous seems to go a long way according to many judges. It is a matter of each judge's own personal style and their particular community's judicial culture. Ultimately the judges' values and attitudes may well determine their effectiveness and tenure.

### **Conclusion**

Judges suffer from compassion fatigue as a result of continually hearing cases where people are physically and emotionally devastated. Awareness of the phenomenon and symptoms by the judge, their families, and their staff seems critical. Judges who are alert to compassion fatigue can make every effort to avoid it by establishing clear boundaries and acquiring key coping skills leading to a robust and resilient career. The judge can hopefully balance the rigors of his/her work by identifying and connecting with key people, as mentors or sounding boards, and by utilizing some of the methods other professions find helpful.

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Judicial administrators need to be aware of compassion fatigue and provide meaningful, not token, systemic support, particularly in cases where there is a risk of serious injury or death. In my view, thoughtful systemic death reviews are a necessity as they give judges some sense that the system itself is self correcting, resilient, and geared to establishing a culture of safety. That way, the judge can continue to hear these risk-laden cases professionally and confidentially without worrying that the other shoe will drop.

In my view, judges need to take stock of themselves periodically and realize that this kind of work is not for everyone. They should assess their own personal resiliency factors and at times be willing to rotate into other less stressful calendars and/or take sufficient time off for a break or sabbatical. They might even candidly reassess being a judge and, by the seven-year mark, consider reinventing themselves in another role. These are all well-established options in other professions, but exceedingly difficult where becoming and being a judge is perceived to be the pinnacle of one's career.

The bottom line is that judges must continually attend to their physical and emotional health in a rigorous and disciplined way by utilizing all of the proven techniques employed by other professions. The judiciary and the individual judges are often society's last outposts of accountability, intervention, and hope for families and children in distress. Surely, we must consider holding ourselves personally accountable while at the same time holding others legally responsible.

<sup>1</sup> Jaffe, Peter, Crooks, Claire, Dunford-Jackson, Billie Lee & Town, Judge Michael (2003, Fall). *Vicarious Trauma in Judges: The Personal Challenge of Dispensing Justice*, (pp. 1-9), *Juvenile and Family Court Journal*, Vol. 54, No. 4.

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## 2003

### National Conference on Domestic Violence Fatality Review

*On October 20-21 the third National Conference on Domestic Violence Fatality Review was held at the Hilton La Jolla Torrey Pines in La Jolla, California. NDVFRI staff welcomed 106 conference participants from 21 states. In addition 35 speakers and workshop facilitators offered their expertise and contributed to the success of this year's conference.*

*The first day of the conference began with a warm San Diego welcome from Dr. Rodger Lum, Director of the County of San Diego Health and Human Services Agency and Casey Gwinn, City Attorney for San Diego.*

*Dr Neil Websdale, NDVFRI Director presented "Scoping Out Reviewable Cases" followed by Ellen Pence, Director of Praxis International, who spoke on "Domestic Violence Fatality Reviews in the Service of Battered Women".*

*Robin Hassler-Thompson of Robin Hassler-Thompson & Associates, Inc., Tallahassee, FL, was joined by Matt Dale, Director of the Office of Victim Services & Restorative Justice, Helena, MT and presented information on "Setting Up Fatality Review Teams".*

*During the working lunch, Ruby White from the National Council of Juvenile and Family Court Judges gave a personal and touching keynote address titled "Lessons on Developing Wings: Bringing Life to Death Reviews".*

*On Monday afternoon, participants chose two workshops to attend and the day wrapped up with a well attended poolside networking reception .*

*The second day of the conference began with attendees participating in an "Experiential Communication Exercise" led by Cynthia Rubenstein, President of Chosen Path, Inc. Following this exercise, participants were asked to choose between two styles of Mock Review sessions. One was a traditional Mock Review led by Dr. Neil Websdale and Judge Mike Town, Circuit Court Judge of the First Judicial Circuit, Honolulu, HI. The second was a "Fishbowl Process" Mock Review led by Cynthia Rubenstein and Matt Dale.*

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Casey Gwinn, City Attorney for San Diego shares his thoughts on the San Diego Family Justice Center, Domestic Violence and Domestic Violence Related Homicides.



The Role of Advocacy in Fatality Review Work presenters (from left) Gail Pincus, Kimberly Pearce, Moon Hi Ree and Margaret Hobart.



The first day of the conference ended with a poolside networking reception.



Ellen Pence of PRAXIS International and NDVFRI Director Neil Websdale.

NDVFRI staff spent several months working with employees of the California Office of the Attorney General and The Office of Violence Prevention. We would like to thank Linda Wong Kerberg, Diane Leshner, Sandra Gaarder and Patty O'Ran for their time and support during the conference planning process. We would also like to express our appreciation to The Department of Justice Office On Violence Against Women for sponsoring this valuable conference.

### **Next year's conference!**

Yes, we are already thinking about the **2004 National Conference!** Tentatively we are planning to hold next year's conference during September or October. We will keep you posted.

## **NEW PUBLICATIONS**

The recently released National Institute of Justice Journal, issue 250, contains the following articles which focus on Intimate Partner Homicide:

- Intimate Partner Homicide: An Overview by Margaret A. Zahn
- How Can Practitioners Help an Abused Woman Lower Her Risk of Death? by Carolyn Rebecca Block
- Risky Mix: Drinking, Drug Use, and Homicide by Phyllis Sharps, Jacquelyn C. Campbell, Doris Campbell, Faye Gary, and Daniel Webster
- Assessing Risk Factors for Intimate Partner Homicide by Jacquelyn C. Campbell, Daniel Webster, Jane Koziol-McLain, Carolyn Rebecca Block, Doris Campbell, Mary Ann Curry, Faye Gary, Judith McFarlane, Carolyn Sachs, Phyllis Sharps, Yvonne Ulrich, and Susan A. Wilt
- Do Domestic Services Save Lives? by Laura Dugan, Daniel S. Nagin, and Richard Rosenfeld
- Reviewing Domestic Violence Deaths by Neil Websdale

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**Look** for articles by NDVFRI Board  
Members Firoza Chic Dabby, Byron Johnson,  
and Neil Websdale in the next issue of the  
**Fatality Review Bulletin.**



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**Our mission** is to provide technical assistance for the reviewing of domestic violence related deaths with the underlying objectives of preventing them in the future, preserving the safety of battered women, and holding accountable both the perpetrators of domestic violence and the multiple agencies and organizations that come into contact with the parties.