

Crimes Against Children: Can This Job Crush Your Soul?

Part 2

BY RONALD M. SANDGRUND, ESQ., INQ.

Childhood should be carefree, playing in the sun; not living a nightmare in the darkness of the soul.¹

This is the sixth article series by The InQuiring Lawyer addressing a topic that Colorado lawyers may discuss privately but rarely talk about publicly. The topics in this column are being explored through dialogues involving lawyers, judges, law professors, law students, and law school deans, as well as entrepreneurs, journalists, business leaders, politicians, economists, sociologists, mental health professionals, academics, children, gadflies, and know-it-alls (myself included).

These discussions may tread on matters sometimes considered too highly regarded to be open to criticism, or even simple examination. I take full responsibility for these forays, and I recognize that I may be subject to assessment and criticism myself. (Please be gentle!) If you have an idea for one of these columns, I hope you will share it with me via email at rms.sandgrund@gmail.com.

This month's article is the second of a two-part conversation about the effect of the cases lawyers handle on the lawyers themselves. This question is examined within the crucible of the prosecution and defense of child exploitation and sex abuse cases—a difficult subject for most of us even to think about. The discussion's first part appeared in last month's issue.

My thanks to my good friends John Haried, Bob Pepin, and Stan Garnett, without whom

I would not have been able to put this article together. Also, I am grateful to the many dialogue participants willing to go on the record with their forthright observations and comments regarding a difficult subject. The dedication and talent of both the prosecutors and defense lawyers involved in child sex exploitation cases is a mighty thing to behold.

Participants



Katharina Booth is first assistant district attorney for Boulder County. She has been a prosecutor for 19 years, spending her career specializing in crimes against women, especially sexual assault and domestic violence.



Caryn Datz was a chief trial deputy of the sexual assault unit at the Office of the District Attorney for the 20th Judicial District, where she supervised a unit of four attorneys who specialize in felony-level sexual assault prosecution. Since the date of her interview, Datz has been appointed a district court judge for the 17th Judicial District.



Laurie Kepros is the director of sexual litigation for the Colorado Office of the State Public Defender, where she trains and advises more than 500 lawyers across Colorado regarding their representation

of adults and juveniles accused or convicted of sexual crimes, including sexual assault on children.



Kathleen McGuire, the former head of the Public Defender's Office for Douglas, Elbert, and Lincoln counties, is now in private practice. She has handled all types of criminal and juvenile delinquency cases. Before becoming a lawyer, she was a social worker for over 10 years, helping people with developmental disabilities and mental illness.



Judy Smith is an assistant U.S. attorney in Colorado and chief of the Cybercrime and National Security Section, where she supervises and prosecutes cyber, national security, and child exploitation cases.



Brenna Tindall, Psy.D., CAC III, is a licensed psychologist with extensive experience evaluating and treating adult and adolescent clients who are involved with the criminal justice system. She specializes in forensic evaluations of individuals in the criminal justice system.

Part 2

Part 1 of this article asked why lawyers choose to handle cases involving the most horrific abuse of innocent children, and whether these lawyers can develop a protective shell around the long emotional shadows these matters cast. We inquired whether there are some cases lawyers simply cannot forget—cases that burn deeply into their memory and haunt their dreams. For those lawyers who cannot shut out the images and sounds of children's pain, we found that handling these cases can affect their personal lives, including their capacity for intimacy and their ability to parent without anxiety.

In this part 2, we explore whether there are ways to mitigate the cumulative emotional trauma many lawyers suffer from this work. Some feel that these lawyers have become society's sacrificial lambs: to get good at their jobs, they must endure this trauma in ever-increasing

doses. We ask whether our legal system allows injustices that magnify the emotional burdens these lawyers must bear.

While working on this article, I ran across a news story called “I Had Nightmares,” concerning the murder trial of a New York nanny who stabbed to death two young children in the family bathtub.² The writer catalogued the emotional toll the trial took not on the lawyers, but on the jurors. These jurors worried that the psychic trauma they felt would linger long after their guilty verdict, and many were still haunted by the “anguished words of the parents and the grisly photos” showing the children, ages 2 and 6, gashed so severely they were nearly decapitated. The jurors spoke of repeated nightmares, of an inability to take baths after seeing the crime scene photos showing blood coating every bathroom surface, and of the children’s mother’s anguished testimony. Two jurors asked to be excused mid-trial. In a Facebook post following the guilty verdict, the children’s father wrote: “These jurors went through hell. I hugged every one of them I could.”

About 10% of jurors report extreme stress after sitting through a trial, according to the National Center for State Courts.³ Some judges have requested crisis-management sessions with jurors following trials with particularly disturbing facts. While we recognize and try to ameliorate the effects of profoundly disturbing trials on jurors, what systems are in place to deal with the cumulative effect of a lifetime of such cases on lawyers?

Trials seem like self-contained dramas to many of us, to be forgotten after the courtroom doors close. However, “Nothing fixes a thing so intensely in the memory as the wish to forget it.”⁴

The Dialogue

The Abused, the Accused, and the World Around Them



InQ: Before we further examine the effect of child sex offender work on lawyers, it makes sense to step back and take a look at the underlying cases so we can better understand how prosecutors and defense counsel experience them, and how they view the victims and the accused.

InQ: Caryn, how does an offender select a child to be groomed for sexual abuse?



Caryn Datz: In the typical sexual abuse case, the perpetrator identifies some vulnerability in a child. Successful offenders manipulate their roles and relationships as adults to children in a way that inhibits the chances the child will report the assault to others and causes them to hesitate to seek help from other adults. One aspect of these cases that interests me is the power dynamics that come into play and the subtle cultural messages that can be conveyed surrounding the abuser’s relationship to the child.

InQ: Judy, what about the claim by some offenders that they were abused and exploited themselves as children, that this helps explain their pathology, and that with treatment they can return as contributing members of society? Is there a strong connection between being abused and becoming an abuser?



Judy Smith: Ron, it is pretty well-established that most victims are girls and most offenders are men. Many of these men claim to have been abused as children in an effort to explain their behavior. However, there are studies using polygraph tests to determine the validity of offender claims that they were the victims of child abuse, and those test results—or the threat to use the test—has resulted in a great many offenders withdrawing this claim. While many offenders claim to be abused as children, the connection is unclear and their self-reporting is inconclusive: the rate may be greatly overstated. Some have asked whether the offenders’ behavior is a form of sexual attraction baked into their brain and sexual response. Currently, there is much scientific and medical debate around that question.

InQ: Yes, there is still much to be learned regarding this area of human behavior. Several defense lawyers I have spoken to relate an elevated rate of childhood sexual and physical abuse among adult offenders.

InQ: Caryn, are there aspects of these cases that are especially tricky to navigate?

Caryn: Yes, a paradox of sorts emerges when I have to deal with child sexual abuse victims

assaulted by an adult they trust and still love and who victimizes them in the worst imaginable ways. There is a paradox in asking a child who has been abused by an adult to then trust an adult who is trying to help them.

InQ: What have you seen as far as how the child victims of these crimes do in the long run after your work is complete?

Caryn: Of course criminal convictions can’t restore the childhood these child victims rightly deserve. There are some things that we, as district attorneys, can’t deliver, such as winding back the clock. Still, I can relay many uplifting stories of young persons and their families who feel validated, respected, and heard. Sometimes, I hear from the victims years later, and I find they are enjoying a full life. Do they have to deal with the lingering emotional scars forever? Yes, I think so. But I have found that children are enormously resilient, even if it is hard to gauge the full gravity of the horror they endured. Many grow up and become productive citizens. But I’m sure that for many—maybe most—the pain remains just below the surface, accompanied by a difficulty trusting others, along with self-doubt and self-blame, with a ripple effect that extends into their families.

InQ: Laurie, you’ve alluded several times to how some aspects of the way our criminal justice system treats alleged child sex offenders may affect criminal defense lawyers and create its own special stresses that combine with the better recognized stresses associated with these kinds of cases. Could you elaborate on this a bit? Perhaps you could focus on just one narrow aspect of the system that you feel isn’t working and that puts stress on PDs.



Laurie Kepros: Sure. For example, let’s take someone who feels the urge to touch a child inappropriately but who does not act on that impulse. They need to seek, and they often wish to seek, professional help. But Colorado law may require their mental health provider—or other person they speak to—to inform the authorities of this person. This serves as a disincentive for people to report and have their issues treated. Our system is so focused on prosecution that we miss opportunities to intervene before another victim is created. So the consultation and

treatment may not occur, the urge cannot be suppressed, and something inappropriate and illegal occurs. Then the person may be brought into our criminal justice system—which focuses on punishment rather than treatment—and a caregiver or breadwinner may be removed from a household, leading to additional consequences for the rest of a family. I have heard folks say, “I touched my kid and I’m scared and I don’t know what to do.”

InQ: I’ve looked at the reporting law. I have no real background with criminal law, but to my eye the law seems to apply only to people who actually touch the child, not to someone who simply reports an urge they haven’t yet acted on.

Laurie: The uncertainty of whether the law applies is an impediment in and of itself. I don’t have the expertise to evaluate when a mental health provider might feel obligated to

report, and I don’t advise clinicians. But I have advised clients about the risks associated with seeking treatment due to the existence of these mandatory reporting statutes. It is a very gray area how any individual clinician or agency will view and construe these reporting requirements, given the penalties for failing to do so and the immunities granted if you do so. People simply don’t know with any level of confidence how their clinician will react and whether a report will be made. This is particularly problematic for victims who seek treatment—they and their family members may get pulled into the system based on ambiguous or vague statements. There was a recent school case where a sexual assault report about another teacher was made to some teachers, the student was contacted, and she said she lied about the facts and that no assault occurred. No report was made, and then the non-reporting teachers got in

trouble later for not reporting the incident. If mandatory reporters view that situation as a cautionary tale that they should make a report in an abundance of caution, what are the consequences for the people who are trying to get their help in confidence?

InQ: How does this uncertainty affect a public defender?

Laurie: There are situations where you want to recommend to a client to start treatment for alcohol or substance use or sexual abuse, but there is a concern that, if during the treatment certain behaviors are disclosed, these will be reported. Then the treatment may not be sought at all. So the defense attorney wants to suggest the client seek therapy, but these other potential ramifications militate against making the suggestion, or require coupling it with a warning that may dissuade the client from seeking help.

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InQ: It seems that these mandatory reporting laws surely must have some beneficial effects—wasn't a parade of horrors presented to the legislature when it first adopted these laws?

Laurie: Striking a balance between broad versus narrow reporting requirements depends on one's personal values and beliefs. Some feel criminal prosecution is the best way to respond. Others feel treatment is better, and that this leads to better prevention. Germany has adopted Prevention Project Dunkelfeld, which involves no mandatory reporting and instead a robust treatment program for people attracted to minors. Germany has a better record than the United States of providing help to those who feel they are experiencing an unwanted sexual attraction. Ron, I know you asked me to limit my comments to one aspect of the criminal prosecution system that I believe is flawed, but I feel compelled to add to what I've said.

InQ: Sure, please go ahead.

Laurie: Many PDs are heartsick at how some of their clients are treated by the system. Mandatory sentencing has taken much of the sentencing discretion away from the judges and placed it with the prosecutors so that "justice" is rendered only during the plea bargaining process. The sentencing laws are very one-size-fits-all, but the cases are incredibly diverse. A conviction for Sexual Assault on a Child (SAOC) mandates an indeterminate "to life" sentence, and I imagine there is a lot of support for such an outcome for a serial child predator. But what about an 18-year-old who engages in a consensual, over clothing, touch of a breast or buttocks with a 14-year-old who presented herself as 18? That 18-year-old is equally guilty of SAOC and subject to the same mandatory life sentence and only the prosecutor, but not the judge, can change that through plea bargaining. Some members of the private bar won't handle sex offense cases due to the system's unfairness.

InQ: Are there other aspects of the system that you think may contribute to the despair some PDs feel?

Laurie: Yes, there are real concerns about disproportionate sentencing. Often the fight isn't over the crime but over the punishment. An otherwise caring parent who is convicted of a sexual offense—even if it concerns a *single*

touching event involving *another adult*—will usually end up subject to a court order to have no contact with kids, regardless of whether they pose any demonstrable risk to children. Although such a blanket policy is lacking in research support, the effects of an order requiring no contact with children are far-reaching and may include being unable to attend a funeral or a wedding, or to attend their kids' parties or visit their schools. These clients might also be subject to highly invasive interventions such as penile plethysmography (PPG), which is the measurement of blood flow to the penis when presented with potential visual or auditory sexual stimuli. PPG is typically used as a proxy for measuring areas of sexual interest.

InQ: The prosecutors with whom I have spoken strike me as wholly committed to trying to protect child sex offense victims, give them a voice, and help them escape cycles of abuse and build a new and healthy life.

Laurie: I believe prosecutors have the best of intentions and genuinely want to serve victims and public safety. There is a convenient narrative—one fed by TV shows like *Law and Order*—that divides people into "good versus evil." I believe that this is a false dichotomy and it undervalues the successful treatment that many clients who have committed a sexual offense could be undergoing. Even in the case of juveniles, where judges have more discretion as far as punishment and treatment than they do for adults, legislative overreaction creates its own problems.

InQ: Can you supply an example of a legislative concern and reaction creating a new problem?

Laurie: For instance, by law, there is a juvenile sex offender registry. But now police have become concerned about the registry—maintaining and monitoring it has become an overwhelming task. And, for many young people who end up on the sex offender registry, it is the same as "social death," affecting their future employment and schooling, and their ability to find a living space and to build healthy relationships with others. In a recent study comparing youth who are required to register to those children who have committed equivalent sex crimes but are not required to register, the

youth on the registry were 400% more likely to have attempted suicide within the previous 30 days than the nonregistered youth. This is a public health nightmare and it is gut-wrenching to PDs to be players in a system that focuses so much energy on inflicting this kind of harm rather than devoting our limited resources to helping victims—and our clients—heal and prevent future abuse.

Doubts About Competency

InQ: Do lawyers who are experiencing distress tend to share their feelings with their coworkers?



Dr. Brenna Tindal: I believe that one of the great fears these lawyers have about opening up with their colleagues about these issues is that they will be viewed as impaired or not competent to do their jobs.

InQ: Caryn, how aware are the folks in your unit—the folks in sex crime units around the state—of the toll the cumulative stress this kind of work can take on a lawyer?

Caryn: Early in my prosecutorial career, no one talked about secondary trauma much as part of what may develop during our careers. I think this kind of talk, this kind of thinking, was seen as a sign of weakness. Today, things are much better—we are much better about talking about these things. Talking itself offers both a kind of release and a chance to hear supporting words. We are offering more and more resources to our attorneys—and our staff who can suffer in the same way—but each person needs to figure out where they are and what they need on their own. They know themselves best, although their coworkers and I can offer our own thoughts of how they may appear to us. Half of the challenge is managing your internal state, acknowledging how hard this work is and the effect it is or may be having on you, and discussing these feelings with your colleagues.

InQ: Laurie, let's drill down into the PD's involvement with child sex offense cases a little bit more. Does handling these cases pose special risks of emotional injury to the lawyer—perhaps affecting the lawyer's competence or bleeding over into their private lives and affecting their intimacy and parenting?

Laurie: Sure, I agree that there may be a concern with a *particular* PD having a strong visceral and emotional reaction to a sex offense case. If they are repelled by the subject matter, they may not be as effective an attorney, and this could affect their competence. Every human being comes at the issue with different life experiences. Some people won't do well with certain types of cases. Some will react to specific cases differently—in the context of sex offense cases, it may depend on one's own experience with sexual abuse. Some images of abuse may get implanted in a person's mind. It is difficult to say whether sex offense cases are a bigger cause of specific problems, such as with intimacy issues, than other types of cases. Again I think this depends on the nature of the case and the psychosocial history of the attorney. But for some, sure, the evidence in a sexual offense case could affect their intimacy.

InQ: Katharina, the mental health professionals I have spoken to believe they have identified a pattern in the long-term reaction of attorneys who handle child sex offenses—both prosecutors and defense counsel. They note these attorneys' fears of having their competency questioned because of the emotional stresses the work engenders.



Katharina Booth: As far as claims that there is a fear among attorneys handling child sex offense cases that they may be perceived as less than competent if they share their feelings about what the job does to their emotional state: that is absolutely a valid statement. They do worry that they will look as if they are not competent. And I think there may be some differences in this regard along gender lines.

InQ: What do you mean?

Katharina: I think that males and females in our society may process stress differently or share its impact differently, and as a result some observers' concerns may not only be exacerbated along gender lines, but also quite unfounded. For example, I recall long ago people raising concerns about having a mother with children handling child sex offense cases—assuming that some female prosecutors might find it too emotionally taxing, impairing their ability or competency.

InQ: It sounds like you might have been on the receiving end of these assumptions?

Katharina: Yes, I was personally asked these questions and concerns when I became a new mother. At the time, it was difficult not to react strongly in the moment when this question was raised, because simply by reacting this way could elicit a negative reaction from the person raising the issue. Instead of attacking the presumption head on, I had to defend my ability in a more diplomatic way. Still, I was denied certain opportunities back then because of this unfounded concern. Much has changed over time, all for the better.

The Paradox: To Do the Best Job, You Must Sacrifice a Part of Yourself

InQ: There appears to be a paradox emerging: for prosecutors and defense counsel to become good at their jobs handling child sex offenses, they need to really specialize in these types of cases. Yet, the time they spend gaining experience with these matters seems to be inevitably attended to by cumulative emotional trauma and stress. Thus, the better a lawyer gets at the job, the more grave the risk of mental health issues and deep emotional injury. Some have suggested that lawyers who do this work should be cycled away from it, either every few months or completely away from it after some years. Caryn, your thoughts?

Caryn: I, personally, find this work very fulfilling and rewarding. I don't like the idea of preemptively removing DAs assigned to this work in order to mitigate concerns about how they might react over time to its stresses and strains. First, it takes a minimum of two years in my view to learn how to prosecute these kinds of cases, and second, everyone reacts differently. That said, as a supervisor I keep an eye on everyone and ask that each of our attorneys keep an eye on themselves, to look for signs of stress. I want people in my unit who want to do this kind of work, rather than have folks periodically rotate in and out. I agree, however, that there is a tension, a paradox of sorts, that the more time a lawyer works at these cases, the better prosecutor they become, but the more time they work on these cases, the more at risk they are of suffering some sort

of cumulative stress that could impact their effectiveness. It has been my observation that the lawyers who are most committed to this task also reap the most value from their work, but they also may become the most exposed to the underlying traumas and most at peril for suffering emotional injury.

InQ: Laurie, it seems that there is a sad irony at work here arising from those PDs specializing in child sex offense cases. The better they get at their job—the more they get to know the law, the experts, the proof, the judges, and the prosecutors—the greater the risk to their mental health. The mental health practitioners I've spoken to suggest that close to 100% of lawyers who regularly handle child sex offense cases suffer cumulative mental and emotional trauma and these persons often deny this is the case, fear being judged as not competent or weak, don't seek treatment, and often manifest symptoms like impaired intimacy and difficulty parenting. And this occurs despite the fact that treatment is available and that just acknowledging and talking about one's feelings can be healthy and cathartic.

Laurie: Well, we need to take a closer look at some of what you just said. First, child sex offense specialization may occur more at the federal than at the state level. Also, federal practice is very different—there are much fewer “hands on” sex crimes cases and more cases involving images and Internet-based crimes. Second, at the state level, PDs usually have general misdemeanor or felony caseloads and regularly rotate through various kinds of cases. And while it is true that some large Colorado jurisdictions have created special victim or family violence units in their district attorney offices, in smaller jurisdictions sex cases rotate among the deputy district attorneys too. If a PD began to feel emotionally unable to navigate the representation of a client accused of a sex crime, I hope he or she would be able to alert a coworker or supervisor so the case staffing could be reviewed and the client protected. Finally, regardless of the type of caseload our PDs carry, it is pretty well-accepted that most PDs don't work for the PD's office for their entire legal career—frequently, they leave or burn out before then. And in the special victim

units, most prosecutors won't stay more than five years either.

InQ: Katharina, what are your thoughts on this disconcerting paradox?

Katharina: As far as whether a paradox may exist between immersing lawyers in this work so they gain the special skills and competence to become very good at their jobs and the fact that the more they do it, the more at risk they are of suffering from the job's cumulative emotional trauma—I think this is true. Still, no one I know *wants* to walk away from the job, which can be at the same time both horrific and yet rewarding.

InQ: So, are we sacrificing some of our best and our brightest legal talent on the altar of crime-fighting and due process?

Katharina: I think that the answer to resolving this seeming paradox is self-evaluation, recognition, acknowledgment, and mitigation. This process can serve as a renewal—a way to restart and revitalize things and to maintain a healthy mind-set. As a supervisor, some of this monitoring burden falls on me. I think those who have worked for me know both that this stress is part and parcel of the job, but that I, as their supervisor, have their back, that I'm there to provide help as needed, and that I understand their feelings and how they are processing them. But I also acknowledge that some subordinates may still try to hide their feelings for fear of looking weak. I try to remind them that self-recognition can foster a sense of relief; they are just having a very human reaction to the job, and together we can work through it.

What Can be Done to Mitigate Cumulative Traumatic Stress?

InQ: It seems pretty well-established that handling child sex offender cases will have, at a minimum, a contributory negative effect on a lawyer's mental health. What can be done and what is being done to assist these lawyers?

Laurie: There are certainly barriers to getting help: there is still a lot of stigma associated with mental health treatment and admitting that one is having issues, and there are concerns that one's competency might be questioned. Ironically, many PDs have a front-row seat to see the stark divide that often exists between

the privileged and non-privileged members of our society. It may be hard for them to admit that, as a privileged class member, they may be having issues of their own that require attention. Some attorneys are better-informed about these kinds of issues and may be less reluctant to seek help and share their feelings. But lawyers are also well aware that if they discuss their most private thoughts and concerns in a supposedly safe and confidential setting, they could still end up seeing these matters disclosed to others for any number of reasons.

InQ: Caryn, are there any particular coping strategies you and other supervisors in your position have employed?

Caryn: Our number one strategy in dealing with the emotional strains of our work is to foster good communication and help the lawyers separate their work world from the rest of their world. This is hard. As a supervisor I really try to focus on what the attorneys in my unit are saying about the work's effects on them, and to never be dismissive about what they say—I've been there. At times, the facts of the case can be overwhelming, and at times in the past I myself have felt like walking away from the job. Some people do simply crash and burn and leave. But I have always been pulled back to the work, to this thing I love doing that fulfills me, and to celebrate the strength of the victims of these crimes that allows them to come to me. There are things we try to do as a unit to mitigate the stress. We try to go out as a team at least once a quarter just for fun, for a break. We do what some might call team-building exercises—like going to an escape room.

InQ: Judy, you previously spoke about going through a period of self-assessment in an effort to distance or detach yourself from the natural empathy you felt for the victims as an act of emotional self-preservation. Have you employed any other strategies to help yourself or your colleagues deal with this burden?

Judy: Are you asking whether I ever shared my feelings with my office's other lawyers? Yes, I have spoken to my coworkers about my own and their feelings; they have commiserated about staying strong and resistant—and I have taken inspiration from that. My colleagues know and understand my feelings; we can share a sort of

gallows humor. Through these conversations I know I am not alone in how I feel and that when I talk to these people, there is no chance they will misjudge how our job affects us. We all agree that we must stay resilient and strong, and to feel otherwise is insulting to the work that we do and the victims of exploitation. We just need to do our jobs. All I know about my colleagues, however, is what I see and hear from the outside—I can't see into their souls.

InQ: Obviously, your job is very wearing in light of the nature of the underlying crimes and the special vulnerability of and effect on the victims. Is there another layer of stress to all this—that is, dealing with these issues through a criminal code that some say sometimes offers a "one size fits all" approach to offenders?

Judy: It is true that current federal sentencing guidelines can really rack up the years for first-time offenders. The typical range is a mandatory minimum of five to 20 years for trading and exchanging child porn. As an AUSA, we try to balance those guidelines with an appropriate sense of compassion given the circumstances—some offenders may be trapped by their own sexual deviances or have gotten caught up in a lifestyle. We typically consider both mitigating and aggravating factors, such as no hands-on abuse; no criminal history; the size, number, and nature of the collection; whether they were or are in a position of trust with children; the extent of engagement in the pedophile community; and the use of chat rooms. We do our absolute best to be fair. I do think that in the end, justice is served.

InQ: Kathleen, when you saw signs that the long-term stress of their jobs was taking a toll on your colleagues at the PD's office, what could you, as a manager, do for them?



Kathleen McGuire: Well, let's first put my answer in context: I left that office five years ago. I know from our earlier discussions that today both prosecutors' and defenders' offices are making use of a number of new tools and strategies to mitigate these issues, and to help lawyers and their staff assess and address these kinds of concerns. Also, so many more resources now appear available. These are wonderful things, and I am gratified to hear about them. But five

years ago, it was a very different picture, and I think some of the reason for this may have been generational. Lawyers of my age just worked and worked and worked—I even put off having a child because of work. We were less aware than the more current crop of lawyers of the critical need for self-care. We did attempt to debrief the more debilitating and wrenching cases, but we never dug deep in an effort to deconstruct the emotional scars those cases may have been leaving.

InQ: It is ironic to hear someone like you, a former social worker and experienced mental health professional, talk about a self-care deficit—I would think you would have been highly sensitized to that need.

Kathleen: You would think so. But after I finished law school and took up the mantle of the PD, I very quickly got inculcated into the defense lawyer’s culture and mind-set, with my

focus on passionately fighting the opposition and serving my client. And when things got rough, the mantra was: “This is a tough job—suck it up.” And that message was repeated over and over in many different ways.

InQ: Did you try to break this cycle at your office?

Kathleen: I decided to investigate further. I sent out an anonymous five-question electronic survey trying to gauge the long-term effects of our job-related stress. I got a 70% response rate—which is unheard of. I got many follow-up emails from the respondents. One lawyer said that just reading the survey questions had been traumatic! Clearly there was an issue that needed to be addressed. Unfortunately, at that time—given the state of knowledge, funding issues, and the historical culture—there was little that could be done, and little that was done, in response to what the survey revealed.

InQ: Katharina, since the stresses and strains of handling child sex offenses seem so open and obvious, as well as inevitable, what can be done?

Katharina: You are asking, “How do we manage those feelings?” The answer is pretty simple: You can’t pretend it doesn’t have an impact. But we take steps to mitigate the effects. We bring in mental health professionals, as it has become more culturally acceptable to talk about these feelings, this secondary trauma, within the office. This wasn’t always the case. We have brought in professionals to talk to everyone involved, attorneys and staff. They can offer individual therapy and assist in training, identifying signs of the secondary trauma impact.

InQ: Do any particular modalities stand out in your mind as being particularly effective?

Katharina: One key element is to debrief after a case—I’m a huge proponent of getting everyone’s feelings out into the open. Talking about these things is good. Don’t stress out and suffer quietly on your own. People used to tend to say “be tough and suck it up,” ignoring the real and inevitable harm this can cause. Each of us needs to recognize what we are feeling and going through, acknowledge the issues we are confronting, and then address those issues with the available resources. Another key element is to seek out pathways that afford fun in life. As a supervisor, I have tried to be really encouraging of all our folks in the unit—I think we have a very mutually supportive team who understand each other well. In short, the key is to manage the trauma we are feeling.

InQ: From all you’ve said, it sounds like prosecutor offices have not always been so cognizant of these issues, nor did they always offer resources designed to attack these specific issues—is that correct?

Katharina: Yes, it has been a long learning process for everyone involved. In Boulder, when we first addressed the issue a while ago, it took about six months to get the requested training—we faced a problem with lack of funding and the fact that no money was built into the budget for this sort of thing. We had to reach out to the County for help. Mental health professionals who had specialized in

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helping police officers and first responders with their cumulative emotional trauma were well positioned to understand and address the issues. In the end, however, I believe that it takes a special kind of person to do this job and remain reasonably grounded and healthy. Of course, it helps immensely to have the necessary resources made available to you.

InQ: Dr. Tindall, have you tried any interventions with child sex offender lawyers who report distress—and have you found any particular modalities to be especially helpful?

Dr. Tindall: It's been pretty satisfying to start forming an intervention around this. My colleagues and I have been giving a three-part training program to various professionals in this field, including attorneys. On the first day we offer psycho-educational information about stress, vicarious trauma, and cumulative career traumatic stress, including possible physical symptoms like weight loss, gastrointestinal distress, sleep difficulties, and the like. On the second day, we administer self-report assessments related to one's stress level, resiliency, and coping skills. On the last day, we set up rotating intervention stations and offer basic techniques suggested by previous trauma research. One modality that seems to offer good results is based on the work of Dr. Martin Teicher. This can involve the lawyer taking up a new or lost skill, like playing the

guitar, which invokes the left and right sides of the brain and seems to bring greater harmony to that person's thoughts and emotions. Yoga and sports can also have this effect.

Conclusion

Some prosecutors choose to handle cases involving the most horrific abuse of innocent children because they have suffered loss or abuse themselves; all find a calling in protecting our society's most vulnerable and defenseless. Meanwhile, defense lawyers are asked to defend a despised class of defendants within a system they believe tilts toward punishment, when treatment may be the better option. Both groups of lawyers try to inure themselves to the horrors these children suffer. They cannot. Rather, they are asked to pay a price to ensure that justice is done. This price often includes intrusive memories, impaired sexual intimacy, difficulties with parenting issues, physical symptoms, and more.

In this part 2, we investigated whether there is more to this trauma than the horrors the children suffer, and asked whether our legal system itself creates injustices that magnify the emotional burdens the lawyers must bear. We asked whether prosecutors and defense lawyers who handle cases involving offenses against children have effectively—and willingly—become society's sacrificial lambs because,

well, *someone* has to do this job. Finally, we explored whether there are ways to mitigate the cumulative emotional trauma lawyers suffer from this work, and we learned that these interventions, while still in their infancy, are helping. In the end, I concluded that the dedication, talent, and sacrifice of both the prosecutors and defense lawyers involved in child sex exploitation cases is quite humbling. **CL**



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NOTES

1. Pelzer, *A Child Called "It": One Child's Courage to Survive* (Health Communications, Inc. 1995).
2. Long, "I Had Nightmares," *The Daily Camera* 15A (Apr. 22, 2018).
3. *Id.*
4. Michel Eyquem de Montaigne (1533–92), Quotation #1296 from Michael Moncur's "(Cynical) Quotations."

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