

# Crimes Against Children: Can This Job Crush Your Soul?

Part 1

BY RONALD M. SANDGRUND, ESQ., INQ.

*“Childhood should be carefree, playing in the sun; not living a nightmare in the darkness of the soul.”<sup>1</sup>*

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 first 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 second part will appear in next 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** is a chief trial deputy of the sexual assault unit at the Office of the District Attorney for the 20th Judicial District, where she supervises a unit of four attorneys who specialize in felony-level sexual assault prosecution.



**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 1

Almost as soon as a friend suggested I look into the issues framed by this article, I started to regret my decision. In my first interview, a prosecutor described spending hours with a law enforcement agent hunched over her shoulders, both staring at a computer screen as she pressed “pause” “rewind” “pause” “rewind” over and over, watching a young child—a baby—being raped. They were looking for clues as to who produced these horrific images. She turned to me and said flatly, “Some men masturbate to this.” When my two-hour interview was over, I asked, “Doesn’t this job tear at your soul?” She replied, “I don’t like to think about that. Anyway, it pales in comparison to what happens to these children.”

This article isn’t about child porn and other conduct involving the exploitation and sexual abuse of children. It isn’t about sex offenders and their pathological impulses, and whether mental health treatment or incarceration is the best response. And it isn’t about the fact that no child

who is subject to such heinous behavior ever fully recovers. But all these matters are bound up in what this article is about: the long-term mental and emotional toll that handling child sex offenses takes on prosecutors and defense counsel.<sup>2</sup> This is not a minor or occasional concern: it is a problem that affects every lawyer involved in these cases and that can take a very heavy toll on their sexual intimacy, their relationship with their children, and their job performance. Moreover, layered into the psychic harm these cases cause are the challenges of working within a flawed justice system that often struggles to deal with the underlying offenses.

While reading this piece, put yourself in the skin of these lawyers. Imagine being a prosecutor asking children who were mercilessly exploited by adults to trust you, an adult, to confront the monsters in their lives. Consider the public defender (PD) representing someone accused of horrendous behavior in a case that will come down to a swearing contest between him and a child. From what I heard—on and off the record—there is a clear trade-off between the experience and expertise these dedicated lawyers gain by handling these cases on a regular basis and their long-term emotional health, with no obvious solution for this problem. The only thing I know for sure is that I am grateful to the men and women on both sides who do this work.

Maybe this dialogue can serve as a lens through which we can view not just these lawyers' stories, but also the long-term effects on lawyers regularly handling emotionally trying cases. For those who think that lawyers simply become inured to the graphic nature and gut-wrenching effects of these cases, this article explores why this is simply not possible.

### The Dialogue

Part I of this dialogue asks why lawyers choose to handle cases involving the most horrific abuse of innocent children, and also whether these lawyers are able to develop a protective shell around the deep emotions such cases elicit. Are there some cases lawyers simply cannot forget—cases that get deeply seared into their memory, and which haunt their dreams? For those lawyers who cannot shut out the images and the sounds and the pain—how does this

affect their personal lives, their capacity for intimacy, and their parenting?

### Why Do Lawyers Do This Work?



**InQ:** Judy, what does your job entail, and how did you come to do this work?



**Judy Smith:** For the past 10 years, the bulk of my work as an assistant U.S. attorney has involved child exploitation cases. This makes up 60% of my current caseload, but used to comprise 100%. I got started when a vacancy opened up—this isn't work many relish doing, so I took up the reins. I've always been mission driven, and I like to do things for their positive effect on others and the community. I saw a gap in law enforcement that needed to be filled. I was willing and able to do this work. Troy Eid encouraged me to get involved, even though the subject matter is horrible. With the advent of sound media and easy file transfers, many more people could access this material, and the exploitation of innocent children exploded. There is something visceral and appalling when the images are coupled with the audio—and then combine that with the recognition that some viewers are getting off on this stuff. Still, it's my job to treat people fairly despite how awful their behavior may be.

**InQ:** Are their special challenges associated with cyber-porn involving children?

**Judy:** Yes, I find the cyber-angle intriguing and intellectually challenging. I have learned how operating systems work, how encryption works, how thumbnail images are generated—it is like becoming a new breed of crime investigator and crime solver. My investigation usually starts with the distribution and sharing of Internet child porn. Getting to the producers—the production of the videos—is key, but also very difficult, especially given the crime's international aspects. There are massive amounts of these images and videos being transferred around the world. The National Center for Missing and Exploited Children (NCFMEC) estimates that they have reviewed over 200 million images and films of child pornography. To date, law enforcement has been able to identify or rescue only about 13,000 of the children shown in these images.

**InQ:** Those are huge numbers; do you find that you are making a difference?

**Judy:** Are you asking me whether we are winning this battle? Sometimes it feels like we are dishing the ocean out with a teaspoon. We try to focus on "this kid, this case." We often expect that the family would rally around the child, but sometimes they rally around the offender. It can be disheartening.

**InQ:** Kathleen, how did you come to do criminal defense work?



**Kathleen McGuire:** Working with criminal defendant clients as a social worker was the impetus to me becoming a criminal defense lawyer, first as a PD for 19 years, and now in private practice for the past five years. I think each of these persons has a unique story to tell about what got them to where they are today, and it is incumbent on me to tell this story in a compelling way. I believe that once my clients' social histories are known, everyone gains a better understanding of how they got where they are, and even to sympathize with them. I think spending 10 years as a social worker before going to law school uniquely sensitized me to seeing the client as "a person," perhaps better than many of my fellow law students.

**InQ:** Does this include getting others to feel sympathy for sex offender defendants—to see them as people?

**Kathleen:** Yes. Many sex offenders share similar psycho-social profiles: absent parents, victims of sexual or physical abuse themselves, introduced or drawn to substance abuse, possible mental health issues. In many other aspects of their lives they may be good, even kind, people—but then they did something horrible to a child. I am a believer that someone should not be judged solely by the worst thing they ever did.

**InQ:** It seems like your focus is less on exoneration and more on sentence reduction?

**Kathleen:** No—if a crime cannot be proven, then that is the first order of business. But, from a practical standpoint, typically about 2% of all cases go to trial. Most of the rest result in plea bargains, and the key to a fair plea bargain or sentence is getting the prosecution and judge to know and understand your client and the circumstances surrounding the alleged offense,

and an accurate picture of the risk, if any, your client presents to the community.

**InQ:** Caryn, you are the chief trial deputy for the Boulder County District Attorney's Office, which includes a supervisory role over the county's five-person sexual assault unit specializing in felony level sexual assaults on children. Is it possible to enjoy this kind of work?



**Caryn Datz:** National statistics show that only 8% of sexual assault cases are reported to law enforcement.

Many sexual assault victims are on a difficult journey, and it is my honor to see them through this transformative process and help them stand up to and hold their abuser accountable. Yes, I "enjoy" these cases in the sense that they can be difficult to prosecute, but I feel privileged to work with these brave victims, and I get great satisfaction bringing an abuser to justice.

**InQ:** Dr. Tindall, what sparked your interest in working with lawyers who deal with child sex offenses?



**Dr. Brenna Tindall:** I have worked quite a bit in the criminal field over the past two years. At some point, I found myself sitting with a colleague

and I happened to ask her offhandedly about the impact of her sex offender work on her sex life. Based on her response that it had, I started talking about the issue with attorneys and probation officers. People started opening up and sharing stories. I found that they were reporting that the images they were viewing for work were intruding into their intimate moments. Some reported feeling a sense of isolation and a fear of being viewed as not competent to do their job. Just recently, I worked with someone who was claiming disability at work. She had been required to watch a graphic, 30-second recording many, many times, and she simply could not get the images out of her head, even during intimate moments with her significant other.

**InQ:** Laurie, you are the director of sexual litigation for the Colorado Office of the State Public Defender, where you train and advise more than 500 lawyers across Colorado regarding their representation of adults and juveniles accused or convicted of sexual crimes, including

sexual assault on children. What path did you follow in getting involved with defending accused child sex offenders?



**Laurie Kepros:** I went into public defender work in 2000 after completing a judicial clerkship following law school. Once I started working in a

regular felony caseload, I found that sex offense cases required more specialized knowledge and had unique evidentiary issues. While I was working in the Arapahoe County Regional Office of the State Public Defender, I was asked to assume a specialized caseload of half of the Sexual Assault on a Child cases in the office, and I agreed so that I could better develop expertise in those cases. Since 2010, I've been the director of sexual litigation for the Colorado Office of the State Public Defender. I train and advise hundreds of lawyers who represent defendants accused of sexual crimes as well as clients who have been sexually victimized themselves. My work involves three functions: training PDs in handling sexual offenses and related issues, consulting on individual cases statewide, and serving on various committees, such as subcommittees of the Sex Offender Management Board (SOMB). The SOMB is charged with devising Colorado's rules and policies for the evaluation, treatment, and monitoring of individuals convicted or adjudicated of sex offenses.

**InQ:** Is there a common thread connecting your various responsibilities?

**Laurie:** In all three domains, I try to correct misinformation by bringing research to light. Misleading information about sex crimes abounds in the public discourse. Fortunately, there has been some recent attention devoted to false, grossly inflated—300% to 2,500%, depending on the study—sexual recidivism statistics relied on by the U.S. Supreme Court. Additionally, many people have a stereotypical idea of who commits a sex offense based on non-representative media accounts and the development of the sex offender registry. Most sex crimes are not committed by strangers. Instead, about 85% to 90% of sex offense cases involve friends, family, coaches, etc. People should worry less about individuals on a sex offender registry and pay more attention to the

trusted individuals in their homes and other private settings.

**InQ:** Katharina, is there something about your personal history that helps your effectiveness as a prosecutor?



**Katharina Booth:** I feel privileged to give voice to vulnerable victims. I think that my experience of growing up in a physically abusive household

as a child helps me to understand and empathize with what many of the children I work with are going through. I don't think this shared experience interferes with my objectivity in these kinds of cases; it just helps me do my job better. I also think it makes it easier for me to work with the child victims, who may be suspicious of adults. I think it allows them to understand that I am neither judging nor blaming them.

### *Don't Lawyers Get Hardened to These Cases?*

**InQ:** Kathleen, do you think PDs get inured to the sometimes heinous facts of the alleged crimes of their clients?

**Kathleen:** Absolutely—and that's part of the problem. And I think this is compounded by the fact that we also become inured to our clients' own traumatic backgrounds. My colleagues and I would tell ourselves, "we are really good at compartmentalizing these things." But there is a price to pay.

**InQ:** What do you mean?

**Kathleen:** For example, there was a moment in my life—one that was the beginning of the end for me as a public defender—where I found myself eating cereal at the breakfast table in my home, nonchalantly viewing autopsy photos of a child. Nothing about that seemed odd to me at the time.

**InQ:** Sort of how a trauma surgeon can leave the office behind when she gets home?

**Kathleen:** Except I found that I wasn't really leaving the office behind—it was affecting various aspects my life. And, I might add, many, many studies have shown that front-line emergency responders, like your hypothetical surgeon, often only *think* they are leaving the office behind. Many of them suffer terribly. Over time, I came to recognize that an important part of me had changed due to the nature of my work. In fact, it had been lost. My friends

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and family could sense this. I had witnessed many terrible things.

**InQ:** Judy, in your prosecution of child exploitation cases, do you become inured to the subject matter at some point, the way surgeons develop some detachment as they get used to their jobs?

**Judy:** The emotional and mental trauma that arises from working on these cases is cumulative. You can't simply do one and move onto the next one. Often, you find yourself hitting a low point, but then the job forces you to move onto the next case, and over time you can handle things better. It does sometimes feel like it is expected that one is obligated to be exposed to a panoply of horrors. I see terrible things over and over again every day—this changes you and affects everything. The subject matter of child exploitation cases does not appeal to most lawyers. I rarely tell other people what I do for a living.

**InQ:** How has this work affected you? It seems like the yearly deluge of these types of cases could overwhelm a person.

**Judy:** At one point, I realized I needed to give myself a break, that the job was hurting me. I gave myself permission not to take the crimes, or the inability to solve every one of them, personally. Still, I felt so badly for the victims. I realized that I was, ironically, becoming both desensitized and hyper-sensitized to the crime's facts. My natural empathy for the victims was draining me emotionally. I started to build a "shell" around myself in an effort to create some emotional distance between me and what I was working on, a form of detachment. I did not seek out therapy, but I knew I was developing a sense of helplessness and I tried to employ some practical tools to manage my emotional response and interior state. Honestly, once you've been through the "transformation" I described, it's hard to know what you were once like. My husband says I am different. Still, I recall one particular moment that brought back many of my feelings to the fore: the Sandy Hook massacre. The news reports really knocked me out and gave me a profound sense of helplessness for about two weeks.

**InQ:** Dr. Tindall, aren't people who deal with child sex offenses ultimately able to separate

themselves to a great degree, and maintain a healthy level of professional objectivity?

**Dr. Tindall:** Sure, people working in professions such as ours often become adept at "numbing" their personal reactions to the witnessed and/or experienced trauma. What is typically quite stressful for the average person becomes "routine." But much lies below the surface.

**InQ:** And what is it exactly that settles out of view?

**Dr. Tindall:** Ellen Marshall, a researcher from Delaware, coined the phrase "cumulative career traumatic stress" (CCTS) to describe the phenomena. She says that CCTS is when individuals experience trauma symptoms "sporadically throughout a career as a result of being routinely exposed to many traumatic events over time." Marshall says that CCTS does not present suddenly as a result of a single traumatic event. Therefore, the trauma symptoms from CCTS do not fit the duration criteria of post-traumatic stress disorder (PTSD). The symptoms, however, are often experienced frequently and are rarely acknowledged.

**InQ:** Is CCTS the same thing as vicarious or secondary trauma?

**Dr. Tindall:** No. Vicarious trauma is listening to or being exposed to victims' stories. CCTS results from continual direct exposure to traumatic events as the event is occurring and does not result from an empathic connection between person and a victim but from a direct and regular experiencing of traumatic events. Throughout this process, it seems that often attorneys have even less of a forum to discuss and manage vicarious trauma and CCTS than some other professionals working in this field.

**InQ:** Laurie, as a longtime PD, have you found that criminal defense lawyers handling child sex offense cases develop a "protective shell" of sorts after handling so many of these cases?

**Laurie:** We, as PDs, never become inured to sex offenses, but we do come to see the larger picture. No one enjoys looking at photos of a child's vagina—it is never a happy day. But I think most PDs who feel special stress in handling these kinds of cases are also reacting to another, related trauma: the effect on their clients and the people close to their clients who

have to endure the failings of our criminal justice system in dealing with these issues. These PDs work with people who, in society's eyes, are involved in the most heinous conduct. Our clients are unpopular, and we are unpopular for defending them. After Bill Cosby was convicted of sexual assault, I did not hear empathy for his lawyers. In fact, some people vilified them for the tactics used in his defense.

**InQ:** Are PDs able to effectively turn their focus from the victims to the accused?

**Laurie:** It is not that PDs don't care about the victims. In fact, many of our clients, facing both sexual accusations and every other kind of criminal charge, have experienced and been profoundly impacted by their own sexual victimization. It is just that, in many cases, the issues are more complex than whether a crime was committed. We see the client within a much larger narrative of humanity and suffering. The client's life story and experiences become part of our lives. Prosecutors often don't see this aspect of the case. They represent the state and have a much different role.

### *Images Etched into Your Brain*

**InQ:** Judy, you say that over time, as a prosecutor, you learn to handle things better—yet are there aspects in your work that stay with you, that you can't shake?

**Judy:** The making of the images, the production cases, stand out most of all. In these cases, one sees the relationship between the producers and the victims, and the damage wrought. In my view, the victims often never recover, they never bounce back. Many victims remain suicidal, come to dread any form of intimacy. In one case, the victim's father was placed on intense supervised probation for 10 years for incest. Then, in blatant violation of the father's probation, he became part of a group of baby image traders and was producing images too. The father was arrested and sent to jail—not to be released until he was 70 years old. The victim said to me, with some *small* sense of hope and relief, "I'll be old enough by the time he gets out to defend myself by then."

**InQ:** Katharina, can you tell me about the aspects of these cases that you have found most difficult to grapple with?

**“I can still see that little girl, I can still hear those sounds, when I think about that case, even now talking to you. You learn after a while: never turn the volume on if it isn’t necessary.”**

**Kathrina:** The hardest cases for me are where I get to know the child personally and form a relationship: then it becomes very hard to hear about or watch on film the perpetrator’s acts. When I watch the films, I feel the victim’s pain. The images and sounds from these videos get etched into my brain. Some just cannot be erased; they never leave you.

**InQ:** Any cases in particular that stand out among this parade of horrors?

**Katharina:** One case involved a sex assault on a child where the perpetrator was videotaping his sex abuse. It was necessary for me to replay and watch the tape over and over. Meanwhile I had been meeting with the child victim separately to get to know him and build a trusting relationship for court. While what I was doing was necessary to build up a rapport with the child to get him ready for his court testimony, the whole process was just very tough to do, having previously watched those videos and seen the sexual abuse this little boy had experienced. You can’t help but feel attached and connected to a child that you want to help and protect. Another case required me to review and select scenes from a series of sexually exploitive tapes made of a little girl over a several year time frame. I watched her grow up in those sexually exploitive videos from 8 to 10 to 12 years old. And every one of those years of her childhood was accompanied by her cries, her pain. I can still see that little

girl, I can still hear those sounds, when I think about that case, even now talking to you. You learn after a while: never turn the volume on if it isn’t necessary.

*How Does the Work Affect Lawyers?*

**InQ:** Caryn, before you were chief trial deputy for the Boulder County District Attorney’s Office, you were a chief trial deputy in Adams County, Colorado, and a public defender for Miami-Dade County, Florida. What long-term effects of child sex offense work have you noticed in yourself and your coworkers?

**Caryn:** This work can be very exhausting on a personal level for all attorneys. Part of my responsibility as a supervisor is to keep my eye on the other team members, give them relief when they need it, support each other, and use humor in a stress-relieving kind of way, not a dark way. Still, some just say, one day, “I can’t do one more case involving a kid.” We try to prevent talented attorneys from ever reaching that point, through support and encouragement of self-care.

**InQ:** The health professionals I have spoken to have used terms like secondary or vicarious trauma, and cumulative career trauma stress, to describe the constellation of self-reports that sex offender lawyers offer of the effect of their work on their inner selves. Do these sorts of psychological labels have meaning to you?

**Caryn:** Our office has been aware of the secondary trauma many law enforcement personnel such as police, forensics, and first responders suffer from their jobs: this is sometimes called crisis and trauma fatigue. These professionals are meeting crime victims in the moment of the victims’ worst personal crises, when they are overwhelmed. This is one of the realities of working in our criminal justice system. We in law enforcement absorb a lot of this emotion and heartbreak and trauma over time, especially as it relates to children, and it is fatiguing. We like to think we can protect and keep people safe, but we cannot prevent these things from happening. We are reactive: trying to seek justice, obtain accountability, and promote healing. Some or all of this can be very hard to accomplish, and this realization sometimes hurts. In many of these cases, the

stakes are high, the emotions are charged, and the matters are strongly litigated, all adding to the pressures.

**InQ:** How many lawyers have you lost to the emotional weight of the job?

**Caryn:** Some attorneys have left this work due to cumulative stress for all the reasons alluded to by me previously. I work very hard to ensure that the unit attorneys “catch themselves” before it becomes too late. By “catch themselves” I mean having an internal dialogue and recognizing that things—stresses—are starting to accumulate and that they are getting close to hitting their limit. To do their jobs properly, they must be “present.” They cannot simply go through the motions and phone it in. If they start feeling the fatigue of just seeing “another victim” come in the door, not wanting or able to fully absorb what the victim has to say and has gone through, or start feeling that they are being pulled in many directions, they may short-change the victim or the work. You must make yourself available, not just to the victim, but to the many motions, hearings, and phone calls that will follow, including the rigors of trial.

**InQ:** Kathleen, from our prior discussions, I understand that you handled or supervised many sex offender cases while at the PD’s office, but that as an overall percentage of all the cases you managed, they probably constitute about 10% of all cases. How do those cases affect the lawyers handling them?

**Kathleen:** I believe that the long-term emotional trauma of handling many other types of cases has a similar psychological effect as handling sex offenses, including offenses against children. PDs are in a unique place compared to prosecutors who handle similar cases: PDs must wall off the natural feelings they might otherwise have for the crime victims as well as to their clients’ own traumatic backgrounds. They need to remain professionally detached and objective. A PD must get to know the client *as a person* and watch what the system does to them. Prosecutors don’t have to go down that road in the same way.

**InQ:** How did the work of a PD specifically affect you and your colleagues?

**Kathleen:** Two things stand out—and I’m generalizing a bit and not limiting my comments

to the PD's office that I worked in. First, the use of dark humor internally to defuse the emotional tension that permeates many of the cases. Second, probably more social drinking than I observed from my family and friends who work in different fields. I recall sharing with my husband a rather dark joke that one of my colleagues made about something the mother of a murder victim had said, and he looked at me as if I'd lost my mind and suggested I not share that kind of humor with him in the future. That comment really stopped me in my tracks—but not in the moment, only some time later after I had time to process it.

**InQ:** Laurie, in the course of preparing this dialogue, I have spoken to a number of prosecutors about the long-term effects of child sex offender work on them and their colleagues. They have been pretty uniform in reporting that they all suffer some level of emotional injury,

and sometimes quite profoundly. You've done this work and have supervised or consulted with many, many lawyers who do this work—what are your thoughts?

**Laurie:** Some defense lawyers appear to show PTSD symptoms as a result of practicing criminal defense. But the kinds of stresses defense lawyers feel probably differ in many ways from those experienced by prosecutors. For example, defense lawyers directly interact with clients who may be facing life in prison or having very strong emotional reactions to their prosecution for a sexual offense. Clients may manifest their distress in the context of their attorney-client relationship. The client's response to his or her attorney isn't necessarily about the attorney. In fact, it may reflect a limited ability to cope with sexual allegations because of mental illness or substance dependency, or an understandable anger reaction to what they

feel is disproportionately harsh punishment by the system. And, of course, these sorts of client reactions are not limited to sex offense cases.

**InQ:** All of this must take its toll over time.

**Laurie:** Yes, there are some PDs in therapy who are struggling to cope with the vicarious trauma associated with their jobs. And let's remember that not just lawyers, but others, like parole officers and mental health professionals, who regularly deal with clients who have committed a sex offense and the outrages associated with criminal justice's systemic failures, are affected. So it is true that these cases are emotionally exhausting. But let's not forget that there are plenty of other highly stressful cases, including murders that PDs also must handle. And there are plenty of stupid crimes with unjust results—for example a 96-year sentence for a non-dangerous person subjected to mandatory habitual criminal

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sentencing—and PDs have to deal with that emotionally too.

**InQ:** Katharina, you’ve been working as a prosecutor almost since law school. You’ve worked under four district attorneys, and worked in Boulder’s sex assault unit for more than 10 years, and are now first assistant district attorney. You’ve been the lead prosecutor in many child sex offense cases, and for seven years also supervised the other sex assault unit attorneys. What have you seen and sensed as far as the toll this job takes on the attorneys?

**Katharina:** I have heard about and witnessed the risks of the cumulative and compounding effects of traumatic stress and vicarious trauma for many years. I believe it is probably a reality for many of the professionals doing this type of work. I feel that I have weathered it fairly well, as have many of my colleagues, but I know of some who have not. For those who make this

work their life’s work, there is a monthly diet of tension and trauma exposure, some like any trial lawyer might endure, but some also very unique to this job. For most of us it is a calling, a way to make a difference in the world. In the old days, the stress was allowed to build over time; today, we have ways to mitigate that.

**InQ:** Dr. Tindall, I understand that you have looked in depth at the effect of child sex offender work on PDs—what have you found?

**Dr. Tindall:** In addition to working with other professionals, working with public defenders and hearing their stories has been eye-opening for me and almost made me feel like I’m being a wimp because of how much they have to manage. Not only are they having to deal with the exposure to really horrible things, they have enormous caseloads and seem to feel a lot of guilt over not being able to give enough effort to each client. Additionally, I think they

sometimes have clients who are not engaged in their own defense, and I cannot imagine how stressful this is. I have, however, been extremely impressed at how open a lot of the PDs are about the negative impact this job has on them.

**InQ:** Is there something unique about PDs that makes them peculiarly susceptible?

**Dr. Tindall:** I think that lawyers, in general, are Type A individuals who push themselves to the limit and are expected to maintain an aura of confidence and portray an image of holding it together at all times. Additionally, I think that because they are exposed to such horrible, bizarre stories, crimes, etc., it seems stupid to them to complain about being traumatized when there are real people being victimized. As soon as I started bringing this topic up with various professionals, it seemed pretty clear that we were all being traumatized by the work we do but were unwilling to call it trauma because it made us seem incompetent or weak. In particular, it seemed that people weren’t willing or able to talk about how this work impacts their parenting or their sexual intimacy with their partners.

**InQ:** Can lawyers step away from themselves for a moment and see the effect their work is having on them? What questions do they need to ask themselves?

**Dr. Tindall:** Do these people ever think about these possible effects? Is there anyone they can talk to about these feelings? When it comes to parenting, do they forbid their kids from participating in sleepovers, or not allow kids to bathe together? Do they let their kids be kids? Are they afraid to travel with their kids? Are they constantly worried about their kids being victimized?

**InQ:** What have you learned about the reaction of prosecutors to these same kinds of cases?

**Dr. Tindall:** I think that their response is very similar to the public defenders and private attorneys.

**Intimate Relations**

**InQ:** Katharina, what about intimacy concerns that have been raised—how real are they?

**Katharina:** I would readily agree that people who work in this area have to confront issues relating to their own intimacy. With regard to intimacy—yes, the job can affect people doing



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this work. This often comes from reviewing evidence of these crimes, especially the videos. The intrusive images—saturating you—can inhibit a person’s sexual intimacy. Sometimes certain images get so burned into your brain you simply cannot rid yourself of them. This is a pretty common side effect of the job that I’ve heard many, many people mention.

**InQ:** Dr. Tindall, what has your research revealed as far as this type of work affecting lawyers’ intimate relations?

**Dr. Tindall:** I was involved in an informal survey involving over 300 respondents, 40% of whom had worked with sex offenders for more than 10 years. Of these, 60% said they had never spoken with a colleague, supervisor, or other person in their field about how the work had affected their sexual intimacy, while 55% said they had never discussed this issue with a partner, family member, or friend. Half said they have never discussed the issue with their partner.

**InQ:** Did any of the respondents explain how this work had affected them?

**Dr. Tindall:** One said she had a reduction in her sex drive due to the “heaviness” around the topic, as well as flashbacks to images she had viewed working up a case. Another said it caused him to second guess his reasons for having sex and seeking explicit consent from his wife, so he didn’t feel like a rapist. Another said that images from work creep into her mind and make her feel dirty and gross—as a result, she felt she was less fun with her husband and had problems “turning off her brain.” Yet another reported that she found it harder to date, and felt paranoid about the opposite sex and the possibility they were a sex offender. Finally, one told me that due to her sex offender work, there were days she didn’t want anyone to hug her, and that on other days, sex had become a chore due to the need for her to become especially mindful and present when being intimate because so many things might trigger a thought or memory that was work related.

**InQ:** It seems like these professionals, including lawyers, believe that sex offender work has greatly intruded into their personal lives.

**Dr. Tindall:** Yes, indeed. Going back to the survey I worked on, about one-third of the survey

respondents said they had been triggered to recall details of a client’s sexual history while engaging in sexual intimacy.

### **Parenting**

**InQ:** Caryn, does what you see and hear on your job, day in and day out, affect your parenting and how you relate to your children?

**Caryn:** I try with my own kids not to allow the darkness of the cases I deal with intrude into how I relate to them as a parent. I don’t want to unnecessarily hover over them. I don’t want my worldview to change because of what I deal with at work. My husband has done similar work, so he gets what is going on in my work world. Both at home and at work we all try to deal with stress through humor—not a gallows humor, but a sense of humor that tries to keep the world in perspective, finding fun in the world outside of the horrific details of our cases.

**InQ:** Kathleen, any ways your work was intruding into your life beyond what we already discussed?

**Kathleen:** Yes, and this is what finally compelled me to leave the PD’s office and go into private practice, where I could reduce my workload and seek a better balance.

**InQ:** What was that?

**Kathleen:** It wasn’t one thing, but rather the fear that the job was changing me, not in a good way, and maybe permanently. This manifested itself in, well, simply “worry.” I had been a very carefree person. It would not have been unfair to have described me as very laid back, almost a kind of hippy-dippy kind of person, before I became a lawyer. But near the end of my tenure as a PD, I was worrying about everything, and in particular, my daughter’s safety and welfare. I became afraid to let her play alone or act independently, at an age where she should have been allowed much more freedom in this regard. I tried to delay the time my daughter would walk home by herself from school, and then I worried greatly when she started to do so. I recall one incident where my sister took my daughter in her car to the zoo, and I began to panic that I forgot to tell my sister to drive carefully, to the point where I felt compelled to call my sister on her cell phone to remind her to drive safely.

**InQ:** What did you do after that?

**Kathleen:** I got out. I remember reaching the decision tentatively in my mind and getting ready to discuss it with my husband. My daughter was 13 at the time. I fully expected to get questions and some pushback: I was just a few years from having my PERA retirement vest after 19 years with the PD’s office. We talked. There was no pushback at all. He knew how important this change was for me, and my need to make it as soon as possible.

**InQ:** Laurie, what effect does this type of work have on an attorney’s parenting?

**Laurie:** As far as parenting issues, an 80-hour work week alone could create problems in this regard, as well as exposure to antisocial elements of society. Wouldn’t you find it reasonable for a PD who is the parent of a young child to be taken aback by gruesome autopsy photos of a child? These factors could make anyone more cautious and paranoid, or feel righteous outrage at a legal system they repeatedly see producing unjust results. But I think it is very hard to tease out the effects of sex offense representation from the other wrenching cases a PD might handle. Then add to that the long hours and the limited resources and the flaws of our legal system that PDs must deal with on a daily basis.

**InQ:** Any other factors that might be at play in putting a PD’s mental health at risk?

**Laurie:** Yes. Lawyers become lightning rods for the anger directed at their clients—in a sense they have to “absorb” the criticism, if not outright anger and hatred, while being charged with retaining a connection with the client’s humanity and presenting that human side to the court and the public.

**InQ:** Katharina, what about parenting—how can the job intrude there?

**Katharina:** The transition from the work world to home life can sometimes be daunting. My best response has been to develop certain routines at home, systematic ways of doing things that help prevent the work world from intruding. The biggest challenges are all these electronic tethers to our work world—they often offer too many interruptions and intrusions of their own that continuously blur the lines between work and personal time.

**InQ:** How about your relationship with your kids?

**Katharina:** I have sometimes found myself being stricter with my children and more cautious about their lives and activities than other parents. I don't let my kids do some things other kids are allowed to do. For example, they were not permitted any access to social media for a long time, especially Snapchat-type apps that erase messages and images quickly, leaving no trail of what was discussed or seen. I believe that Snapchat-type apps can invite dangerous behavior. I'll admit to carrying more "fear" about the world. For example, at my kids' school, there are school publications—some online, some not—that honor the students' achievements with a short blurb or story about them and a photo. For a time, I was adamant that the school never post both my child's name and photo together. I am just too sensitized to exploitive adults trolling public media, matching up names and faces, and then contacting the child on the pretext of congratulating them, but then starting up an online relationship with an eye toward grooming them. We once had a case of a sex offender doing exactly this *while incarcerated* at the Boulder County jail. I'm guessing most parents never even think twice about allowing this type of publication of their child's successes.

**InQ:** How old are your kids—when do they reach an age where you are able to let them fend more for themselves?

**Katharina:** In the case of my son, he recently turned 16 and for the first time I said to the school, "yes, you can show his name and photo together." Yet I still have fears. I must add, however, that in addition to what we've talked about, I also have a fear as a prosecutor of retaliation against me or my family by someone with whom I previously crossed paths as part of my job.

**InQ:** Is this just your reaction or do your coworkers have the same parental fears and exercise the same caution?

**Katharina:** In having spoken to friends and coworkers about these things, they too have expressed the same fears about their children. They, like me, have become self-aware regarding these fears, and have tried to put checks and balances in place in their lives to mitigate their

effects. I happen to be married to someone in law enforcement, but I have many friends and colleagues in this business who are not, so they cannot turn to someone who lives and breathes these same worries—so drawing the proper lines in their own lives and with their children may be more challenging. Ironically, by being more protective, we as parents can actually force our kids into more vulnerable spaces and actually increase their risk for victimization. For example, we can inadvertently cause kids to hide their Internet use and social media sites and, if something dangerous happens, they may fear telling us so as to not expose their hidden profile. If we isolate our kids and don't let them socialize normally, they may end up alone and more exposed.

**InQ:** Dr. Tindall, do any specific examples come to mind how this kind of work affects the lawyer's parenting?

**Dr. Tindall:** I think that, like a lot of us who work in this field, my experience is that many attorneys I've talked to have concerns about letting their children have sleepovers, decide not to have children, or refuse to have a babysitter. General surveys of various professionals who have regular contact with child sex offenses suggest that 40% were led to be more protective of their kids, and almost 60% felt self-conscious regarding their behavior around their kids, including limiting physical contact. Many develop fears that their own children themselves will offend.

**InQ:** That seems like a lot of fear and worry for a person to carry around.

**Dr. Tindall:** Truly. And it certainly can manifest itself in some concerning behaviors. In general, my survey showed that across professions, including attorneys, there was sometimes increased suspiciousness, paranoia, fear, and anxiety associated with parenting in particular.

### 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. Meanwhile, defense lawyers are asked to defend a despised class of defendants within a system they may 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 being a parent, physical symptoms, and more.

In part 2, we explore whether there are ways to mitigate the cumulative emotional trauma lawyers suffer. We ask whether these lawyers have effectively—and willingly—become society's sacrificial lambs because, well, *someone* has to do this job. Finally, we investigate whether there is more to this trauma than the horrors the children suffer: does our legal system create injustices that magnify the emotional burdens the lawyers must bear? 



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### NOTES

1. Pelzer, *A Child Called "It": One Child's Courage to Survive* (Health Communications, Inc. 1995).
2. During my discussions with lawyers and mental health professionals, I became aware that while the cumulative emotional trauma these types of cases produce is most evident and immediate in the lives of prosecutors and defense lawyers, two domestic relations lawyers I know reported many of the same feelings after dealing with similar behaviors during custody proceedings. I wondered: What about other criminal lawyers who handle brutal and graphic crimes like murder and assault, or civil attorneys who specialize in wrongful death, serious and traumatic injuries like burns and loss of limbs, systematic and degrading rights violations, and the like—do they suffer similarly? Despite these questions, the focus of this article remains with lawyers handling child sex offenses.