

Navigating Stress and Overworking

The very nature of certain jobs can create high levels of tension and stress. Occupational stress describes the presence of extensive work demands and inadequate capacity to meet those demands. This imbalance often results in adaptations that cause psychological or physiological suffering. High levels of occupational stress have been found to have a negative impact on job performance, job satisfaction, health, and quality of life.¹

Managing Stress Response, High Stress and Chronic Stress.

“While necessary, indigent defense practice, or public defense, involves significant challenges. These include high caseloads, underappreciation, relatively meager wages, and low-income, highly needy clients. Indigent defense attorneys have an ethical obligation to overcome these obstacles to zealously and effectively represent criminal defendants. The combination of working with needy, frequently traumatized clients in a highly adversarial atmosphere for an underfunded office have the potential to expose public defenders to high levels of occupational stress and secondary traumatic stress.”²

One study found that “nearly 90% of the attorneys suffered severe stress involving at least one of the seven stressors calculated. Over half of respondents suffered severe stress from the size of their caseload, the emotional toll of the job, or the lack of resources available to perform their duties.”³

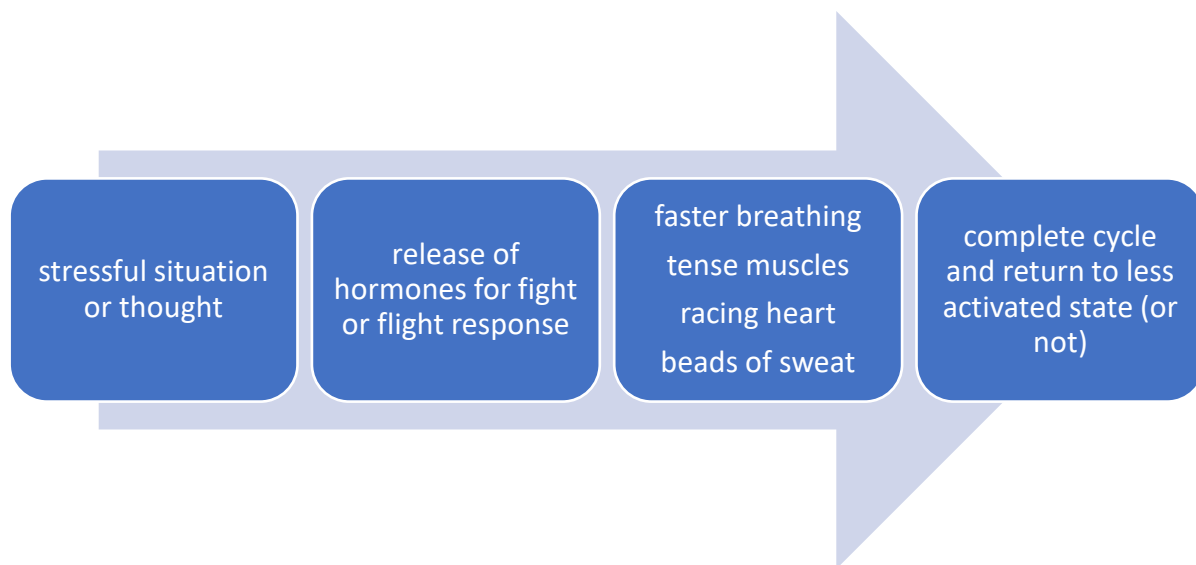
Our work exposes us to constant stress and this has short and long term health impacts. Our work includes a steady stream of events that can trigger a physiological stress response. “A stressful situation — whether something environmental, such as a looming work deadline, or psychological, such as persistent worry about losing a job — can trigger a cascade of stress hormones that produce well-orchestrated physiological changes. A stressful incident can make the heart pound and breathing quicken. Muscles tense and beads of sweat appear.”⁴ Stress is a physical process.

¹ Dotson, E., Brody, D. C., & Lu, R. (2020). [An exploratory study of occupational and secondary traumatic stress among a mid-sized public defenders’ office](#). Journal of Criminal Justice and Law, 4(1), 22-39, internal citations omitted.

² Dotson, E., Brody, D. C., & Lu, R. (2020). [An exploratory study of occupational and secondary traumatic stress among a mid-sized public defenders’ office](#). Journal of Criminal Justice and Law, 4(1), 22-39.

³ Dotson, E., Brody, D. C., & Lu, R. (2020). [An exploratory study of occupational and secondary traumatic stress among a mid-sized public defenders’ office](#). Journal of Criminal Justice and Law, 4(1), 22-39.

⁴ [Understanding the stress response](#), 5/1/18, Harvard Medical School. This article has a very understandable overview of the physiology of stress response and relaxation response. It’s useful to read to understand the effectiveness of mindfulness breathing practices to reduce stress response and activate relaxation response.



Part of our sustainability work needs to be acquiring skills to move through these stress responses and complete the cycle so that our bodies don't stay in a chronically activated stress response. "Over time, repeated activation of the stress response takes a toll on the body. Research suggests that chronic stress contributes to high blood pressure, promotes the formation of artery-clogging deposits, and causes brain changes that may contribute to anxiety, depression, and addiction. More preliminary research suggests that chronic stress may also contribute to obesity, both through direct mechanisms (causing people to eat more) or indirectly (decreasing sleep and exercise)." ⁵

In their book *Burnout*,⁶ sisters Emily and Amelia Nagoski explore the benefit of completing the biological stress cycle in order to return your body to a state of relaxation. Useful strategies can include: learning about the stress and relaxation responses as physiological processes, breathing and mindfulness practices, regular exercise, and movement practices such as yoga.

Intentionally activating the relaxation response can be a useful counter to the stress response. The relaxation response can be activated by deep abdominal breathing, yoga, tai chi, prayer, qi gong, and visualization practices.⁷

Because stress is a physical process, some of the most effective strategies to reduce stress response are physical, such as movement and breathing. Mindfulness practices can help us increase awareness and regulation of these processes.

⁵ [Understanding the stress response](#), 5/1/18, Harvard Medical School.

⁶ [Burnout: The Secret to Unlocking the Stress Cycle](#), by Emily Nagoski PhD and Amelia Nagoski DMA.

⁷ [Understanding the stress response](#), 5/1/18, Harvard Medical School.

Strategies to Reduce Stress Response

Movement:

- When things blow up—take a 5-10 min walk, then strategize.
- Add walking check ins or team meetings.
- Try a balancing exercise (stand on one foot, standing yoga poses) to focus and activate relaxation response.
- Schedule movement after difficult meetings or evidence review.
- Organize hikes, yoga, softball games, bocce tournaments, or other group movement.

Breathing:

- Lengthen exhale. (such as inhale 4, exhale 8 breathing) to reduce stress response.⁸
- Deep belly breathing to increase relaxation response.⁹
- Slow breathing when a meeting becomes emotional (mention it or not).
- Focus on steady breathing when activated (when you notice the breath becomes short and shallow).

Mindfulness:

- Breathing exercises that focus the attention on the present sensation of the breath.
- A [body scan](#) is a mindfulness exercise that involves mentally scanning your body from head to toe. As you move your attention through your body, notice any areas of tightness and invite those places to ease and relax.
- Take a walk and focus on the sensation of the feet touching and rolling across the ground with each step.
- Try a 5 senses grounding exercise: notice or name 5 things you can see, 4 things you can feel, 3 sounds, 2 scents, 1 taste.

Resources:

[Burnout: The Secret to Unlocking the Stress Cycle](#), by Emily Nagoski PhD and Amelia Nagoski DMA. Useful strategies to end the cycle of feeling overwhelmed and exhausted. Instead of asking us to ignore the very real obstacles and societal pressures that stand between women and well-being. Includes: what you can do to complete the biological stress cycle—and return your body to a state of relaxation; why rest, human connection, and befriending your inner critic are keys to recovering and preventing burnout.

[1 Hour Podcast on Completing the Stress Cycle](#), with Brene Brown, Emily Nagoski, and Amelia Nagoski

[Understanding the stress response](#), 5/1/18, Harvard Medical School. This article has a very understandable overview of the physiology of stress response and relaxation response. It's useful to read to understand the effectiveness of mindfulness breathing practices to reduce stress response and activate relaxation response.

⁸ [Link to 3 min video practice: Lengthen the Exhale to Reduce Stress Response](#)

⁹ [Link to 4 min video of this breathing practice](#)

Overworking

I saw the best minds of our generation distracted by texting, tweeting, emailing.

--Tiffany Shlain

The weight of the consequences, plus the volume of cases, can create a constant sense of feeling overwhelmed and inadequate. Our work culture can reward and reinforce the idea that working around the clock is heroic, necessary, and a demonstration of dedication. One essential tool for staying in this work is developing boundaries so that you can limit the intrusion of this work into your time, energy, and thoughts. We need to protect times within the work week to eat well and exercise and spend time with loved ones. We need to develop work week habits that include rest throughout each work week. For many of us, this requires setting firm time boundaries, such as leaving by a set time, or not working for a designated, regular part of the weekend. It takes regular time and effort to maintain these boundaries, and to re-set them if a particularly demanding trial or other work event causes us to modify (or abandon) them for a period of time.

Working long hours is literally killing people: research found that working 55 hours or more a week was associated with a 35% higher risk of stroke and a 17% higher risk of dying from heart disease, compared with a working week of 35 to 40 hours.¹⁰ There are two ways longer working hours leads to poor health outcomes: (a) direct physiological responses to stress, and (2) longer hours meant workers were more likely to adopt health-harming behaviors such as tobacco and alcohol use, less sleep and exercise, and an unhealthy diet.¹¹

“Research reflects that about a quarter of lawyers are workaholics, which is more than double that of the 10 percent rate estimated for U.S. adults generally. Numerous health and relationship problems, including depression, anger, anxiety, sleep problems, weight gain, high blood pressure, low self-esteem, low life satisfaction, work burnout, and family conflict can develop from work addiction.”¹²

The ABA’s Well-Being Toolkit¹³ includes in its definition of a healthy workplace that tasks and responsibilities can be accomplished successfully within the time available. In most public defense assignments, this is laughable. We are continually triaging essential tasks like communicating with the people we represent, completing investigation and legal research for their cases, consulting with experts on everything from complex DNA analysis to immigration consequences of a charge or conviction, coordinating with advocates and other county agencies to address housing, mental health and substance use treatment needs. We work long hours into the evening and weekends and still don’t complete important tasks. This is a major source of stress, anxiety and feeling inadequate at work. It causes many people to work long hours without sufficient rest, regular time off (like weekends) or vacation.

Taking vacations is one of the single best predictors of overall well-being. “In their study of 6,000 practicing lawyers, law professor Larry Krieger and psychology professor Kennon Sheldon found that the number of vacation days taken was a significant predictor of lawyer wellbeing--and was stronger even

¹⁰ [Long working hours killing 745,000 people a year, study finds](#), BBC, 5/16/21.

¹¹ [Long working hours killing 745,000 people a year, study finds](#), BBC, 5/16/21.

¹² 2018 [ABA Well-Being Toolkit](#) at p. 31.

¹³ 2017 [ABA Well-Being Toolkit](#) at p. 9.

than income level in predicting well-being.”¹⁴ Many public defenders don’t take vacations, and we need to take them. We need to overcome our own hero complexes and work addiction, plan stridently to protect our time away, advocate for office culture and practices to support time off, and happily cover for our colleagues by offering high quality and compassionate representation to the people we represent to cover the absence of others. Taking vacation requires office support and adequate coverage systems. In the unfortunate (and too common) absence of effective coverage systems, we still need to plan time away and often need to improvise our own coverage systems with colleagues.

The expansion of work into a 24/7 expectation of availability is not good for us. [Research at Lehigh](#), on the personal impact of 24/7 availability expectations, found that email communications and expectation of response contributes to emotional exhaustion, poor work-life balance, anxiety and a strain on personal relationships. Even employees who didn’t respond to off-hours emails were negatively impacted by receiving them. These researchers suggest setting clear expectations of when employees are expected to monitor communications and limit use of electronic communications outside those windows.

In [24/6: The Power of Unplugging One Day a Week](#), Tiffany Shlain reminds us of the important ways that religious traditions, secular organizations, and labor groups have fought for non-work time. The very makers of the devices that monetize our attention with dopamine-fueled screen dependence limit or prohibit those habits within their own families. She jokes of rewriting the beginning of Allen Ginsberg’s “Howl” as: “I saw the best minds of our generation distracted by texting, tweeting, emailing.” She is unquestionably right in advising us that down time is “a force field of protection that gives us strength, resilience, perspective and energy.”

Individual Strategies to Reduce Overworking:

1. **Commit to off hours.** Set a start time and end time for the work day and try to manage your time to stay within it. Set parameters around weekend work time (ex: 9-12 on Saturday) rather than letting the work expand to fill all the time that isn’t specifically scheduled for other things.
2. **Set work goals around time not task.** Set a goal to leave at a designated time—such at 6 pm--not to complete the entire to do list before leaving. It will never be completed. You will build habits of working more efficiently and being realistic in estimating turnaround time for tasks.
3. **Set routines and rituals to end the work day.** Clear your desk, update your prioritized task list and leave.
4. **Set transition markers.** Create a transition marker along the way home—an intersection you drive though or train/bus station you pass—to transition from work thoughts to home thoughts. How was my partner’s day? My child’s day at school?
5. **Give honest timeframes.** To managers for projects, to clients for motions. Be honest about your available time and what you are capable of completing, while maintaining your rest time. You can work around the clock for a project or a trial, but not for decades.
6. **Accept structural limitations as structural.** One of the hardest parts of public defense is the stress of feeling you’re not doing enough and knowing that the reality is that some things are not getting done, and that most of us will never reach end of the task list—and the “task list” is filled with urgent needs of people who are suffering. This can be very demoralizing. Recognize that this is structural under resourcing of public defense, not a personal defect or shortcoming.

¹⁴ 2018 [ABA Well-Being Toolkit](#) at p. 12.

Organizational Strategies to Reduce Overworking (“Overdeployment”)

1. **Coverage.** Provide coverage for planned and unplanned absences. Pause assigned work during absence. Care for clients during absence.
2. **Define work hours.** Define off hours. Discourage non-emergency work communications during off hours. Define emergency narrowly.
3. **Prioritize rest.** Build culture that values rest, not ceaseless work.
4. **Model** rest and boundaries as a leader. Train and trust others to cover your job, too.

Resources:

[A Trauma Informed Care Audit Report to the Capital Defense Community and Advocacy Movement](#)

Albert, Linda and Deb Smith, [VIDEO: The Toll of Trauma](#), discussing the 2011 WI study (4 min video)

American Bar Association. [Directory of Lawyer Assistance Programs.](#)

Bačák, V., Lageson, S. E., & Powell, K. (2020). [“Fighting the good fight”: Why do public defenders remain on the job?](#) Criminal Justice Policy Review, 31(6), 939-961.

Bačák, Valerio and Lageson, Sarah and Powell, Kathleen, [The Stress of Injustice: Public Defenders and the Frontline of American Inequality](#) (December 12, 2020).

[Books on Lawyer Well Being](#) Library of titles from ABA Publishing.

Brafford, Anne, ABA 2018 [Well Being Toolkit](#) for Lawyers and Legal Employers.

Dotson, E., Brody, D. C., & Lu, R. (2020). [An exploratory study of occupational and secondary traumatic stress among a mid-sized public defenders’ office.](#) Journal of Criminal Justice and Law, 4(1), 22-39.

Ferguson, Beatrice, [The Relentless Mental Toll of Public Defense. And what could make it better.](#) Slate. Jan. 4, 2023.

[Indigent Defense Research Association](#) A virtual, interdisciplinary community of practitioners, researchers, funders, and policy analysts who care about using data to improve public defense.

[Institute for Well-Being in Law](#) In August 2017, the Task Force published a comprehensive report titled The Path to Lawyer Well-Being: Practical Recommendations for Positive Change. The release of the report resulted in a national movement among stakeholders in the legal profession to take action to improve well-being. In December 2020, the Institute for Well-Being in Law (IWIL) was formed to carry on the movement launched by the National Task Force. The Institute for Well-Being in Law is a 501(c)(3) non-profit charitable organization that evolved from the National Task Force on Lawyer Well-Being.

Jaffe, S. (2017). It's not you, it's your caseload: Using cronic to solve indigent defense underfunding. Michigan Law Review, 116(8), 1465-1484.

Krill, Patrick R., JD, LLM, Linda Albert and Ryan Johnson, [Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys](#), (2016 Ford Foundation study for ABA), Journal of Addiction Medicine: January/February 2016 – Volume 10 – Issue 1 – p 46–52. A sample of 12,825 licensed, employed attorneys

completed surveys, assessing alcohol use, drug use, and symptoms of depression, anxiety, and stress. Substantial rates of behavioral health problems were found, with 20.6% screening positive for hazardous, harmful, and potentially alcohol-dependent drinking. Levels of depression, anxiety, and stress among attorneys were significant, with 28%, 19%, and 23% experiencing symptoms of depression, anxiety, and stress, respectively. The “parade of difficulties” includes suicide, social alienation, work addiction, sleep deprivation, job dissatisfaction, a “diversity crisis,” complaints of work-life conflict. Younger lawyers in the first ten years of practice experience the highest rates of problem drinking and depression.

Krill, Patrick R., Nikki Degeneffe, Kelly Ochocki, Justin J Anker, [Professionals, and Profit Centers: The Connection between Lawyer Well-Being and Employer Values](#), June 3, 2022. 62% of lawyers reported feeling most valued for their personal or professional attributes, 28% of lawyers reported feeling most valued for attributes like productivity and responsiveness, 10% of lawyers who believed their employers did not value them or did not receive enough feedback had the poorest mental and physical health.

[Lawyer Well Being](#) YouTube channel: created by Anne Brafford, includes yoga and meditation practice videos as well as videos about connecting with clients and other well being video content.

Lipsky, Laura van Dernoot, [Beyond the Cliff](#), TED talk

[Long working hours increasing deaths from heart disease and stroke](#): WHO, ILO, World Health Organization study, May 17, 2021 The study concludes that working 55 or more hours per week is associated with an estimated 35% higher risk of a stroke and a 17% higher risk of dying from ischemic heart disease, compared to working 35-40 hours a week.

Moss, Jennifer, [Burnout Is About Your Workplace, Not Your People](#), Harvard Business Review, Dec. 11, 2019. While this article doesn’t mention moral injury, it’s all about shifting responsibility for managing and preventing burnout from the individual to the organization. It lists the top 5 reasons for “burnout” as: Unfair treatment at work, Unmanageable workload, Lack of role clarity, Lack of communication and support from their manager, and Unreasonable time pressure.

[National Task Force on Lawyer Well Being](#): formed in 2017.

[The Path to Lawyer Well-Being](#): Practical Recommendations for Positive Change. Report from the National Task Force on Lawyer Well-Being, ABA 2017: This report’s recommendations focus on five central themes: (1) identifying stakeholders and the role each of us can play in reducing the level of toxicity in our profession, (2) eliminating the stigma associated with help-seeking behaviors, (3) emphasizing that well-being is an indispensable part of a lawyer’s duty of competence, (4) educating lawyers, judges, and law students on lawyer well-being issues, and (5) taking small, incremental steps to change how law is practiced and how lawyers are regulated to instill greater well-being in the profession.

[Public Defenseless Podcast, Episode 40](#). (1:11:05) How Moral Injury, Stress, and Trauma Impact Public Defense w/Jenny Andrews.

[Those Who Love the Fight](#) | Episode 12: Sherr & Andrews, Moral Matters, 3/18/21. (48 min)

Winne, Annabelle, [Engaging Pandemonium: A Conversation between Social Workers about Secondary Trauma and Resilience during COVID19](#), Medium, 3/31/20.

Prepared by Jenny Andrews, BeSustained.org. A child of counterculture, raised off the grid by back-to-the-land hippies on the Lost Coast in Northern California, Jenny Andrews is a graduate of Cornell University and Harvard Law School. She started her career as a public defender in Oakland, California in 1996, but left after seven years, after experiencing burnout and moral injury, and didn't practice law for three years. She returned to public defense work in 2007, and continued working as a public defender in Sonoma County and Santa Barbara County until 2022, in a wide variety of positions, including: Forensic Resource Counsel, Felony Team Leader, Director of Training and Senior Deputy. For 23 years, she worked on the front lines of criminal trial courts and has consistently litigated cases, including misdemeanor, felony, juvenile, civil commitment (mentally disordered offender and sexually violent predator), mental competency, homicide, and multi-jurisdiction (and multi-jury) trials. She has carried specialized caseloads of complex, forensic and capital litigation. In 2022, she became the Director of Training at the Indigent Defense Improvement Division of the Office of the State Public Defender, a new statewide effort to support and train indigent defenders in California. She teaches on the faculty of Gideon's Promise, the National Association for Public Defense, the National Legal Aid and Defender Association, the National Criminal Defense College, the Trial Advocacy Workshop at Harvard Law School, and the California Public Defenders Association. She has taught in public defense training programs in Alabama, Florida, Georgia, Idaho, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Montana, Nevada, New Jersey, New York, Oregon, South Carolina, Tennessee, and in public defense offices throughout California. In 2018, she launched BeSustained.org, a training and resource hub to support the well-being of public defenders. She has been interviewed about PD well-being on the [Public Defenseless Podcast](#) and for [Slate Magazine](#).