

**WE'VE BEEN THROUGH
A LOT:
THE PANDEMIC'S IMPACT
ON JUDGES AND LAWYERS**

October 28, 2021

Stress and Resiliency in the U.S. Judiciary

- Published in December 2020; largest of its kind
- The largest national survey of judges on stress and wellness (n = 1034)
- Describes how US judges experience judicial stress and resiliency
- Identifies:
 - sources of stress and its impact on well-being
 - risks for developing behavioral health problem
 - coping mechanisms used to deal with stress
- Highlights needed support and services related to stress management and resiliency skills



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Demographics

79% state courts; 10% local courts

Approaching an even split as to gender (57% male - 43% female)

Heavily weighted towards white (84%) with 5% each for Hispanic and African-American

Very mixed representation of geographic locales

80% of those surveyed were 50 years of age and older

Sources of Stress

Rank	%	Item
1	79.7	Importance/impact of decisions
2	73.2	Heavy docket of cases
3	67.6	Unprepared attorneys
4	62.5	Self-represented litigants
5	58.1	Dealing repeatedly with same parties without addressing underlying issues
6	55.5	Public ignorance of the courts
7	53.5	Long hours of work without a break
8	50.3	Hearing contentious family law issues
9	50.3	Isolation in judicial service
10	49.5	Insufficient staff support
11	48.5	Increased incivility & lack of professionalism by counsel
12	47.9	Unable to hear as many cases as needed
13	45.9	Cases involving severe trauma/horror
14	47.3	Inadequate compensation structure
15	41.6	Running for office/reelection
16	41.4	Courthouse security concerns
17	37.2	Increased use of electronic media
18	37.1	Concern for personal or family safety



Alcohol Use - AUDIT

Risk Level	Frequency	Percent
Lower risk	929	90.5
Increasing risk	81	7.9
Higher risk	11	1.1
Possible dependence	5	.5

Results:

- 9.5% of judges responding engaged in problematic drinking of some degree
- 20.6% of lawyers engage in problematic drinking (30% post-pandemic)

Mood Effects of Depression

Depression symptoms reported:

- fatigue & low energy after several cases (38.8%)
- not having initiative to do what I used to (22.9%)
- preoccupation with negative thoughts (20%)
- feel that work is no longer meaningful (17.8%)
- can't wait for days work to end (16.7%)
- depressed mood (15.3%)
- feel I have nothing to look forward to (12.6%)
- response to pleas of urgency increasingly numb (11.2%)
- care little about outcomes of trials (6.9%)
- thoughts of self-injury or suicide (2.2%)



Thoughts of Self-Injury or Suicide

- • General Population: 3.4% in a year
- • Judges: 2.2% in the last year
- • Law Students: 6% in the last year
- • Lawyers:
 - -11.5% have had suicidal thoughts during their career
 - -2.9% reported self-injury
 - -0.7% reported one or more attempts

Mood Effects of Anxiety

- Increased health concerns (27.6)
- Feelings of apprehension or anxiety (23%)
- Intrusive thoughts of traumatic images of people or evidence (19%)
- Find it difficult to ask a respected colleague for a critique of my work (13.3%)
- Difficulty breathing, excessively rapid breathing (7.4%)
- Worried I might panic and lose control (4.6%)

Gender Differences

- Men and women showed statistically significant differences in the ratings of “moderate to extreme effects” on nearly all items.
- Women were more acknowledging of the severity of stressors, sometimes twice the % of men.
- Consistent with cultural factor: men are less likely to acknowledge effects that may be perceived as weaknesses.



Resiliency Activities and Interests

Current Activity Item	% Active (rank)	% Interest (rank)	Difference Active/interest	Difference rank
Physical exercise (walk, jog, bike, swim)	82.3 (2)	98 (2)	15.7	12
Relaxation, stretching (yoga, tai chi, etc.)	51.3 (10)	89.7 (9)	38.4	3
Meditation, mindfulness, mind-quieting	35.9 (13)	81.4 (12)	45.5	2
Spiritual, faith tradition	49.3 (11)	70.9 (13)	21.6	8
Hobbies, pastimes	73 (6)	97.8 (3)	24.8	6
Adequate sleep, better habits	66.4 (8)	96.9 (5)	30.5	5
Balanced nutrition, better meals	88.7 (1)	99.4 (1)	10.7	13
Diverse friends outside of the field	73.4 (5)	97.4 (4)	24.0	7
Reading educational materials	77.3 (3)	94.5 (7)	17.2	11
Social support of trusted people	76.6 (4)	96.3 (6)	19.7	10
Asking for peer support	36.8 (12)	83 (11)	46.2	1
Personally support & confront colleagues	54.7 (9)	89.6 (10)	34.9	4
Involve staff in planning, scheduling, etc.	71.4 (7)	91.6 (8)	20.2	9

Recommendations

Recommendations are made to stakeholder groups:

- **State Supreme Courts**
- **Judicial Regulators**
- **Judicial Educators**
- **Judicial Membership Associations**
- **Lawyer and Judges Assistance Programs**
- **Judges Individually**

What is Well-Being?

and
judicial

Defining Lawyer Well-Being

A continuous process in which lawyers strive for thriving in each dimension of the

VANDERBILT JUDICIAL WELLNESS STUDY

Terry Maroney
Vanderbilt Law School

Cultivating personal satisfaction, growth, and enrichment in work; financial stability.



Engaging in creative or intellectual activities; ongoing development.

Developing a sense of meaningfulness and purpose in all aspects of life.

Recognizing the importance of emotions. Developing the ability to identify and manage our own emotions to support mental health, achieve goals, and inform decision-making. Seeking help for mental health when needed.

Developing a sense of connection, belonging, and a well-developed support network while also contributing to our groups and communities.

Striving for regular physical activity, proper diet and nutrition, sufficient sleep, and recovery; minimizing the use of addictive substances. Seeking help for physical health when needed.

**Study of human
aspects of
judging**

**40+
confidential
interviews
(federal)**

**350+
anonymous
survey
responses
(federal &
state)**



Study of human aspects of judging

40+ confidential interviews (federal)

350+ anonymous survey responses (federal & state)



determine range of judicial wellness efforts in the USA, how they have evolved & what they are trying to achieve

- ◆ identified, collected, coded 300+ studies, programs & resources
- ◆ 21 interviews w/ judicial wellness leaders
- ◆ consultation w/ one large court system

Judges' Wellness Challenges

Physical health

- **Balancing work-life (teaching, court outreach and other projects) while getting treatment for breast cancer.**
- **We have these very sedentary jobs. [We help judges talk with each other about] nutrition, exercise, sleep[,] how to recognize advanced age [and] cognitive impairment issues.**
- **We're spending our entire careers in the decline of our brain health[, but unlike the heart or kidneys,] nobody does anything about your brain until there's a problem.**

Mental health

- **Dealing with horrible things you see and hear, especially cases with child victims, sexual abuse, and murder cases. You just cannot unsee some things. I see the worst of people and it is exhausting.**
- **[A peer volunteer judge] was talking about anger management and says, "I made everything into a fight," but his underlying issue was depression.**
- **I had a panic attack on the bench.**
- **I [successfully] intervened with a judge with coexisting substance abuse and depressive disorder.**
- **Physical wellness helps my mental health.**

Judges' Wellness Challenges: Isolation

Before-times

- I think feeling isolated and alone comes with these jobs. I can come in this building and not see a colleague for a week.
- **I bounce things off my colleagues. That helps a lot. The judges on this hall are really close friends of mine and I don't feel isolated.**
- You can't go out with your old friends. That first year or two, the phone would ring, and I'd go, "Oh, someone's calling me!" then you'd find out, no, it was for the law clerk or from my kids. Here you aspire your whole life to be a judge and you're alone.

Pandemic

- I'm an introvert, so I appreciate being alone more than others. But sometimes it's downright depressing. I've struggled some.
- **It's strained and weakened [collegial] relationships.**
- **I sincerely miss the colleagues I had a good relationship with before [but I can] avoid face-to-face interactions with the more explosive members of our court.**
- The inability to go out to lunch with friends and go to events in the evenings took a toll on me emotionally.
- **I've had more time with my family and neighbors.**

Judges' Wellness Challenges: Stress

Before-times

- **The decisions we make are very serious and have serious consequences for humans. And everyone's judging what we do, right? If you're stressed, you lash out at litigants, and nobody wants that.**
- **A judge [may be] a pretty healthy human being but is very overwhelmed by the stress of the caseload, a particular kind of case, or their personal life—divorce, a child that's acting out.**

Pandemic

- **The shutdown/pandemic increased my level of stress at the same time it removed the ability to engage in the activities I used to release stress.**
- **Made us all a lot more cranky!**
- **"How do I do this hearing on Zoom? What about my jury trials?!" We're all working twice as much.**
- **Less stress from commuting; sweatpants and puppies; I focus better at home; telework can be effective and efficient**
- **This past year the continued pattern of police killings of unarmed black people has had a much greater impact on my stress level than the pandemic-related shutdown.**



Snapshot of Institutional Efforts

wide variation -
longevity, funding,
structure, staffing,
focus, services,
depth within
judicial community

Clear evolutionary trends:

lawyers → lawyers & judges

disability → wellness

substance abuse → wellness
spectrum

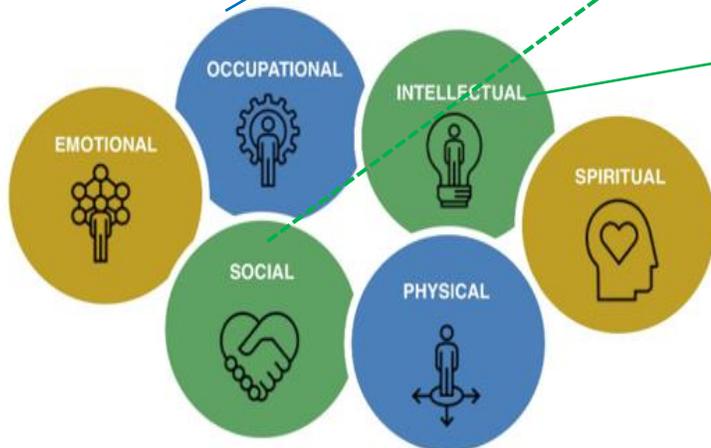
reactive → proactive

information → action

Little state -
federal synergy

I don't have any
interaction with
[federal] judges,
and I don't know if
there's any
services that are
provided to them.
- state JLAP leader

Attend to all Judicial Wellness Domains



Professional - Competently perform duties of office while relating to colleagues, lawyers, parties, and public with civility, respect, and professionalism.

Interpersonal - Maintain an appropriate balance among the demands of work, family, and community, derive support from others, and continue to function in the face of relational challenges such as death of loved ones, divorce, and interpersonal conflict.

Cognitive - Have an awareness of cognitive function, recognizing age or health-related declines in memory, thinking, or concentration, and consistently approaching judicial work analytically, objectively, and thoroughly.

Emotional - Maintain good mental health, responding to stress and challenge with problem solving, emotion regulation, and resilience, and approaching work with excitement, joy, and gratitude.

Physical - Maintain good physical health, including healthy eating, physical activity, and sleep habits, along with responsible use of substances such as caffeine, alcohol, and prescription medicines.

Spiritual - Developing a sense of meaningfulness and purpose in life, including in judicial work.

COPING STRATEGIES

- Emotion regulation: acknowledging negative emotions and describing them in granular detail—avoiding denial, minimization and rationalization
- Meditation and other stress-reduction practices
- Self-care: rest, relaxation, eating and sleeping well
- Practicing gratitude and self-compassion—overcoming perfectionism one day at a time
- Maintaining a network of honest and supportive relationships

OVERCOMING ISOLATION: THE ELEMENTS OF GENUINELY SUPPORTIVE RELATIONSHIPS

- Reciprocity
- Appropriate boundaries
- Kindness
- Respect
- Candor
- Note- power imbalances affect each of these dimensions

THINKING, FAST AND SLOW (from Daniel Kahneman)

- System one:
 - Intuitive, reactive, spontaneous
 - Genuine, but prone to unconscious assumptions and biases, and not always constructive
- System two:
 - Reflective, reasoned, intentional
 - Not always accessible in emotionally-charged or stressful situations, but capacity can be increased through meditation and other attention-building practices

MINDFULNESS

- Being in the present instead of the past or the future
- Limiting the power of the reactive brain and giving the responsive brain more space in which to function
- Creating space for dealing with difficult conversations or situations
- Intentionality: choosing one's response, including expression of empathy and compassion toward oneself and others

PRO-SURVIVAL ATTRIBUTES OF JUDGES

- Patience
- Perspective and self-awareness
- Compassion toward self and others
- Connection to others

HUMILITY

- This is hard work
- You can't fix everything
- You will disappoint yourself repeatedly
- Fortunately, you will have many opportunities to practice and learn

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THE FIRST RULE OF SELF-CARE

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TALK ABOUT SELF-CARE

WHAT IS SELF CARE

**THE PRACTICE OF TAKING
ACTION TO PRESERVE OR
IMPROVE ONE'S OWN HEALTH**

**Paying attention to
your "self"**

Being nice to your "self"

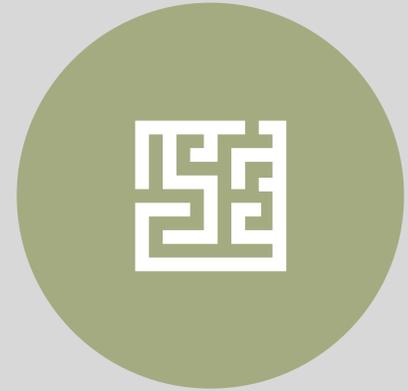
Making your "self" a priority

**Protecting your "self" from
others**

What is NOT self care



**SELF
IMPROVEMENT**



A TASK

DEFINING WELL-BEING IN LAW

A CONTINUOUS PROCESS IN WHICH WE STRIVE FOR THRIVING IN EACH DIMENSION OF OUR LIVES:



EMOTIONAL

Value emotions. Develop ability to identify and manage our emotions to support mental health, achieve goals, & inform decisions. Seek help for mental health when needed.



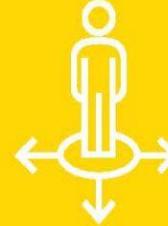
INTELLECTUAL

Engage in continuous learning. Pursue creative or intellectually challenging activities that foster ongoing development. Monitor cognitive wellness.



OCCUPATIONAL

Cultivate personal satisfaction, growth, and enrichment in work. Strive to maintain financial stability.



PHYSICAL

Strive for regular activity, good diet & nutrition, enough sleep, & recovery. Limit addictive substances. Seek help for physical health when needed.



SPIRITUAL

Develop a sense of meaningfulness and purpose in all aspects of life.



SOCIAL

Develop connections, a sense of belonging, and a reliable support network. Contribute to our groups and communities.

Emotional wellness ideas

Let yourself feel

Walk away from harm

Reframe negative self-talk

**Delay action (intellect not
emotion)**

Identify ability to cope

Physical wellness ideas

Standing desk

Walk/talk and stretch/watch

Join league or club

Use transitions to be active

Columbo - one more thing

Occupational wellness ideas

Take email off your devices

Dedicate space for work

**Ask for changes, resources,
training**

Keep private journal

Ask for feedback

Spiritual wellness ideas

Practice acceptance

Identify your personal values

Spend time alone in reflection

Practice compassion

**Let go of judgment (read the
Four Agreements)**

Social wellness ideas

Spend time with the people who support you

Use your preferred method of communication

Establish or join a support group

Take screen breaks/vacations

Connect with a mentor



QUESTIONS AND DISCUSSION

www.lawyerwellbeing.net