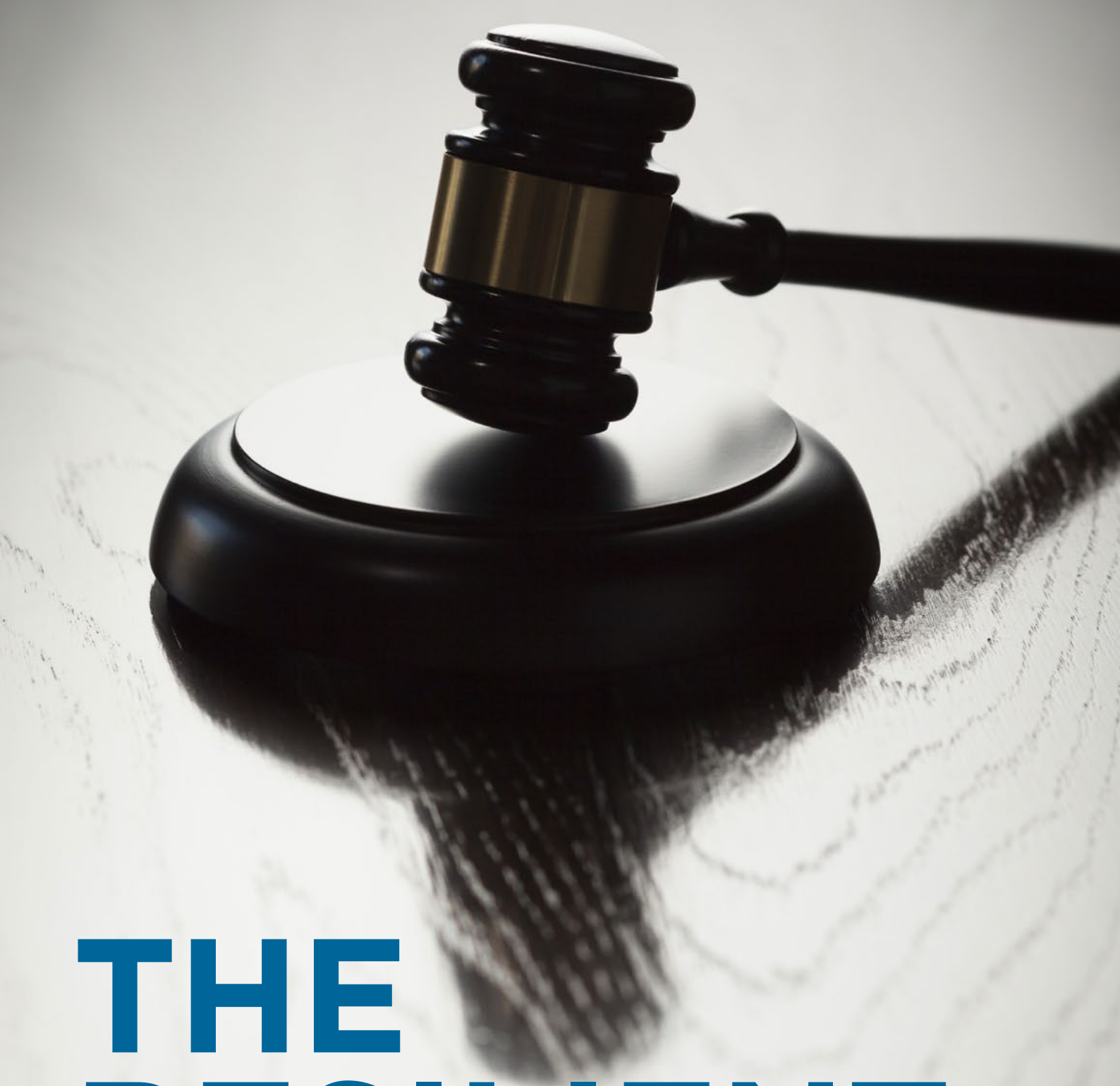

THE RESILIENT LAWYER

A Manual for Staying Well @ Work

2nd Edition

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PART I: An Introduction to Stress and Mental (Brain) Illness

Introduction

The Law is such an important profession. Despite the bad press you get, we as a society cannot cope without you. We need the rule of law to live by, courts to enforce it and lawyers to interpret it for us and represent us. It can be interesting, challenging, diverse and complex. It takes intelligence, hard work and skill to earn your living at it. At its best, its notions of social justice and accountability make the world safer for all of us and remind us of our obligations to each other.

However, we also know that many lawyers are struggling. The Law can be highly pressurised, demanding, boring and difficult to eke a living from. Lawyers have the highest rates of depression, anxiety and addiction of all the professions and, sadly, the highest suicide rate. Competition and an adversarial approach to everything can make collegiate relationships difficult and sometimes the way you treat each other in the workplace is only adding to the stress. The purpose of these notes is to provide you with the knowledge you need to better manage these stressors, make emotionally informed, wise business and professional decisions and thrive in your chosen profession.

We will examine the current understanding of how stress works, particularly in regard to neuroscience. We will discover and better understand the origins of depression and anxiety and learn how to help ourselves and any colleagues who may be struggling. I have broken the discussion into three sections: Part 1 *An Introduction to Stress and Mental (Brain) Illness*, Part 2 *What the Workplace Can Do*, and Part 3 *Individual Strategies: What You Can Do to Stay Well and Flourish*. References and resources for more information are provided at the end of each chapter.

How Stress Works

Stress is a normal, indeed healthy human attribute. It is part of our fright/fight/flight mechanism largely run by our amygdala in the brain. Its purpose is to make us check to see if we are in any kind of danger and then take action to get to safety if we can. Now, of course, originally this was meant for life threatening situations and all animals have it. It is important to note that it is an involuntary, unconscious response driven largely by the older structures in your brain and driven by your non-logical right brain. It works like this: one of your senses picks up a threat; this comes through your spinal column to your cerebellum, which activates your emotional brain by revving up your heart rate and alerting your amygdala, which gets ready for action; and then a referral is made to your cortex, which decides whether to dampen or escalate your response based on previous experience. If it escalates it (say by deciding it's a snake not a stick because it was a snake last time), then you experience an amygdala hijack that won't let up until you are out of there.

Once this happens, cortisol is released by your brain into your system to make more sugar available for energy, your heart rate goes up and adrenalin and other hypertensive drugs are released into your body. And you don't stop to think. All of this makes perfect sense if the threat is a snake or a lion, and will last generally for a brief period of time, until you are safe (or not!).

But, if the threat is not life threatening, like an argument, a deadline or workload and it can't be resolved quickly, this response becomes unhelpful and over time the build-up of these chemicals in your system can cause serious health problems. Also, while ever you are under amygdala hijack, it's really hard to access your cortex functions of assessment and thinking.

This is made worse in modern humans because our cortex, unlike the rest of our mammal cousins, developed language, which gives us the ability to ruminate. Now, once again ruminating is good, to a point. It is the uniquely human capacity to think through what just happened and think of a way to avoid it or anticipate it next time. The trouble is we haven't yet become very good at turning the ruminating off. According to Robert Sapolsky, the world's leading expert on the physiology of stress, this has turned our short-term useful fright response into an unhelpful, long-term state of mind. In other words, we are the only animal on the planet that can *think* our way into fright and stay there!

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Stress at Work

As mentioned in the introduction, legal work places seem to be generating more stress than most. There are a number of factors operating here. There are too many of you for a start, putting pressure on jobs and careers. Too many of you are practising because you got into law, not because you really wanted to. Workload and hours are horrendous for a lot of you. Others don't have enough work to make ends meet or have difficulty getting paid. Many of your clients are distressed, suffering from mental illness or just behaving badly. Court is also a very high stress environment for most lawyers. Those of you working in Criminal, Child or Family Law are at extra risk of Vicarious Trauma, where the client's trauma can be 'caught' by you. But the biggest factor, I think, is that your relationships in the workplace are doing you in. One in two female lawyers and one in three male lawyers say they experience bullying at work. Within five years of starting work as a lawyer, 70% of new lawyers will quit for good. In the broader workforce, 80% of Australians leave their job due to unresolved conflict, usually with someone senior, but do not quit their professions.

The other factor we need to take into account is that the state of mind of those around you (colleagues and clients) is crucial to your state of mind. In fascinating research, James Fowler and Nicholas Christakis have been able to show that attitudes, emotional states, values and behaviours are all contagious, to the third degree. In other words, you are influenced by and influence your colleague's colleague's colleague, whom you have never met. This holds true for eating habits, cardiac diseases, exercise and voting habits as well as those already mentioned. One unhappy, unwell lawyer in a workplace quickly leads to more unhappy lawyers.

This we, think, is due to mirror neurons in our brain, that developed when we were living in packs together, but could not speak. It was crucial to feel the state of the other because they couldn't tell us, but we depended on each other. So I have a pretty good feel for how you feel, even when you might not know.

Add to this the work done by Australian business consultant Andrew O'Keeffe who makes a cogent argument that our history as a group animal is also a factor. We are exquisitely sensitive to what others think of us and how they treat us, because we have traditionally depended on those around us for our survival. That used to be our family, who were also our work mates until relatively recently. If they don't like our performance or disapprove of us, it could be fatal. Now we spend hours a day in small groups of colleagues doing shared tasks and we suffer from what O'Keeffe refers to as the "paradox of the family". In other words, conflict at work can *feel personal* when it isn't. We begin to act as if we are in a family situation rather than a work one. Those of you working with your real family members can find this even more fraught. I would add as a therapist that once it feels personal, people start to respond as they would in their family of origin.

This knowledge has led O'Keeffe to propose nine human instincts that can explain why we respond at work the way we do. He urges us both as individuals and managers to take these into account in our work place interactions. They apply to clients' behaviour too. For a list of these instincts see O'Keeffe's website, www.hardwiredhumans.com, or even better buy his book of the same name.

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Vicarious Trauma

For those lawyers working in Criminal, Child Protection, Immigration, and Family Law, there is the added element of Vicarious Trauma to contend with. Because we possess the mirror neurons mentioned above, and because we are a pack animal in our biological nature, we are vulnerable to the pain and suffering of others. Hearing about and seeing the distress of others makes us distressed.

What happens is the trauma of the distressed person activates your mirror neurons, which is read by your brain as threat, which then activates your stress response (described above). So you end up with your stress response about their story. And of course, lawyers in the fields mentioned are not just hearing one story or dealing with one distressed person. You are dealing with one after the other day in, day out, year in, year out. And, here's the kicker: the more dedicated you are, the more empathy you have, the higher the risk. One final great piece of news: this kind of stress accumulates, so the longer you've been working like this, the greater the risk. The more isolated or unsupported you are, the worse it gets too.

The risk is not just psychological, it is also physical. The physical risks include diabetes (from all that sugar chugging around your system), heart problems and damage to other major organs like kidneys, pancreas and your gut. Arthritis and other inflammatory conditions are connected with trauma as are sleep disorders (which lead to a whole pack of problems on their own).

Psychological problems are cynicism, anxiety, depression, under-reacting and over-reacting, avoidance and anger. Sometimes people reach for drugs, booze, sex or gambling to deal with this and that, of course, only compounds the problem. Efficiency and clear decision making are hard to maintain in this state of mind for all the reasons outlined above. So corners get cut, work is late, conflict arises at work and at home and you are too tired and defeated to deal with any of it. Sound familiar?

I will refer you to a later chapter for the things you, as an individual, can do to help combat this. But, in this chapter, I will concentrate on what the profession, firms and supervisors can do to help.

First, the profession needs to get that this is real. In fact we have known about it (not by this name) ever since the team of researchers led by Victor Frankl that interviewed holocaust survivors ended up with worse trauma symptoms than the survivors themselves! Charles Figley, the first to study this in the modern era, found the same was true for people whose work involved listening to the distressing stories of others, like lawyers. He makes the following suggestions.

First, finding ways to keep connected to the bigger picture helps. It actually helps to consciously be proud of what you do, realise it is meaningful work and be proud of yourself. It helps to hang around people who get that and can remind you. It is also helpful, when reflecting on the work, to call to mind things done well and take a strengths-based approach. (Check out Martin Seligman for this)

So, things like pro bono work, teaching, law reform, meeting with others and hearing what they are doing are all good antidotes. Writing about the work and writing policy also help. You will notice these are all left brain activities. The work of Iain McGilchrist suggests that taking right brain distress and putting it through a left brain filter of words calms the right brain down and takes the distress out of the story. A lot of therapy for Post-Traumatic Stress Disorder (PTSD) works the same way. Daniel Siegel, who has done more than most to bring the knowledge of neuroscience to trauma, says: "if you name it, you can tame it."

Second, supportive relationships are crucial. If you work alone, find some peers you can meet with regularly. A mentor or coach would also be helpful. Mentoring programs in firms, government departments and in-house should be put in place. David Rock has some great suggestions in his book, *Coaching with the Brain in Mind*; it's a great resource. He has a simple model called SCARF; look it up.

Supervisors should always be looking out for signs of Vicarious Trauma and putting in place plans to deal with it. It is essential to have a rational, reasonable workload in these areas. Hours need to be watched so that you are not working dreadfully long days. Holidays and leave need to be flexible and judiciously used. Job descriptions need to reflect the work and responsibilities; performance review needs to be supportive. Training needs to be regular and relevant.

Employee assistance programs (EAP) or counselling have a big role to play. Sharing the worry with someone with skills to help you form strategies to cope with it can help you get ahead of the problem. Finally, a break from certain kinds of matters can help people recharge and come back afresh.

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Mental (Brain) Illness

The Law as a profession seems to have a fear and a lot of misunderstanding about mental (brain) illness. You seem to think it is about weakness, lack of intelligence and shameful. So if any of you become unwell, you find it difficult to talk to each other and try to cover it up. The high levels of depression, anxiety and suicide amongst lawyers strongly suggest this needs to change. First, let's be clear about the aetiology of mental illness and clear up any misconceptions.

You will notice the word "brain" in brackets in the above title. I believe "mental illness" is a harmful misnomer that divorces mind from brain. All mental illnesses either come from, or result in, a change in brain function. The person's brain is working differently; therefore, their mind is working differently.

Some mental illnesses, like Schizophrenia and Bi-Polar Disorder, and some anxiety disorders and depressions actually have a genetic component to them. In other words, it's in the DNA in some families. Just like multifactorial physical conditions, it doesn't necessarily follow that because granddad had it, you will get it. But it does increase the odds that you will get it. In fact, our new understanding of the brain can help us here. We now understand that our brains are exquisitely sensitive to the environment they find themselves in and the relationships they are currently conducting. This is called *neuroplasticity* and simply means our brain keeps adapting to where it is, what it is doing and who it is with. And this plasticity is evident throughout the life span. So in terms of mental (brain) illness, your brain arrives with whatever DNA predisposition it has and then environment and relationships and what happens to you in your life does the rest.

Let me tell you my own story to demonstrate how this works. Some years ago I underwent a bio-feedback test that identified a predisposition to depression in my brain. The tester asked me if there was a history of depression in my family. Being a smart a..e I answered: "Which family?" I am adopted. My adoptive family has no history of depression, but I had recently discovered that my natural family did. Both my birth mother and my half-sisters had all suffered from depression. So it seems it is in the genes there. This is what I think happened. My mother inherited a depression predisposition from one or both of her parents. She then, in her early twenties, became accidentally pregnant with me to a man she did not want to marry. She was forced by her parents to give me up for adoption and never saw me again. Grief turned the predisposition into depression.

Meanwhile, I arrive with the genetic predisposition but, through the process of adoption, end up with two parents who were not depressed, were very happy to see me and lived a lifestyle full of natural antidotes to depression. These include: compulsory sport and exercise, a huge extended family and social network, busyness, and a lot of happy people around me. So my environment and relationships inoculate me against depression. Despite what's in my DNA, so far, I haven't had it.

By contrast my sisters, with the same DNA, came into a life with a grieving mother with a secret (they weren't told about me), an unhappy marriage that eventually broke up, less social connection and no sport. They have both suffered depression in their adult life and had a lot of illness. There you have it, genetics, environment, relationships, habits and some luck all play a part in the production of a mental (brain) illness.

Many people experience their first signs of mental (brain) illness in their teenage years or early twenties. There are a number of ways this can happen. The adolescent years are a very volatile time for our brains. They undergo a massive process called neural pruning whereby all of the synaptic pathways that haven't been used very much, like say, music or sport or ballet, get trimmed out of the brain to make way for a consolidation of what the young person is interested in. This change particularly involves the prefrontal cortex where self-regulation resides. Also the amount of reward chemicals in the brain (like dopamine and oxytocin) go up and down dramatically, leading to a tendency to seek reward from thrills and danger. So young people are on an emotional roller coaster ride and this can certainly flush out any predisposition sitting, until then, unnoticed in their brain.

Drugs and alcohol obviously play a role here too. In their race for a rush and poor appraisal of danger, this is the time they try drugs. Introducing outside chemicals into the brain's already complex soup can have devastating effects for some people.

Also, together with bodily changes, sexual encounters, high pressure from studies and making life decisions, stress is the main factor for some young people. Prolonged periods of stress are not good for any of us, at any age, and can create or bring on a mental (brain) illness. Taking all this into account, we can perhaps understand why law students top the suicide rates of all those at university and why young lawyers are so vulnerable. If they survive this period, what habits are they bringing into their working life with them? And, particularly in regard to alcohol abuse, what role models are senior lawyers providing?

This is a good segue into the next major cause of mental (brain) illness, which is drugs and alcohol. As previously mentioned, our brains are already a complex soup of opiates. This is our reward system and is the reason why sex, love, speed and taking risks all feel so good. It's a great thing to have. It is natural that when we are anxious, depressed or stressed we seek to get that good feeling back. It works in the short term but, because our brain quickly adapts to a certain level of 'buzz', we have to keep increasing usage to get the same buzz each time. This is also true in the case of non-substance addictions like sex, gambling, internet porn, shopping, exercise and pretty much anything else you can think of. They are all looking for that dopamine rush and all get into the same cycle where reward is never enough. (For a brilliant explanation of this, see Ch. 9 in T*he Brain that Changes Itself* by Norman Doidge and, for the teenage brain, *Brainstorm* by Daniel J. Siegel.)

I'd like to make one last point on the drugs part of the discussion. Marihuana is turning out to be a major player on the mental (brain) illness field. It is a drug that turns out to be very good at triggering any predisposition that is already there and it is also implicated in the onset of a mental (brain) illness history for many people who *didn't have a predisposition*. This is especially so in women, because it attaches to the extra fat in females and works longer and more potently than in males. But before you get too cocky guys, repeated use of dope cuts off the tails of sperm in males, rendering them impotent and infertile! Lawyers are big consumers of drugs and alcohol.

The final cause of mental (brain) illness is prolonged stress. Anyone can succumb if they are in a stressful situation for too long for all the reasons described in the previous chapters on stress. As we all know, a legal career is replete with prolonged stress.

Taking all this into account, it is clear there are a number of risk factors in the Law that make it unsurprising that lawyers have almost double the rate of the general population of mental (brain) illness.

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Understanding Depression

Given the high rates of Depression and anxiety amongst lawyers, I thought it would be useful to explain how they work and what they look like. The aim is that if you or a colleague start to show early signs of the illness you can get help quickly. Because of the brain's plasticity, the longer it is in a certain state, the harder it is to change that state. But the good news is that, thanks to that same neuroplasticity, it can respond to treatment, but the earlier the better.

Clinical Depression is one condition that can have an inheritable component, as discussed in an earlier chapter. But it can also arise from a long period of stress and rejection or a depressed environment. The symptoms are in three areas. Sleep is disturbed and the sufferer is often tired and lethargic all the time. Eating habits change; for some people this means weight loss, for others it means weight gain. And finally, the person's mood is flat, and their thoughts are dark and pessimistic. Left for too long, these thoughts can become suicidal, as the person loses hope that they will ever feel better.

Levels of Depression range from mild to severe and some people have it periodically, while others can have a chronic form of the illness. Other terms you may have heard are Reactive Depression, which means a Depression that follows bad events, and Endogenous Depression, which is less responsive to events and literally means "from within" (this is more likely to be the genetic version).

Just to make a distinction here, there is also Bi-Polar Mood Disorder (which used to be known as Manic Depression) in which the person suffers from Depression as described above together with periods of highs and lows. This condition has a strong genetic component and is cyclical (i.e. it occurs in regular cycles) rather than episodic. If you have this in your family history and your moods seem to be all over the place, it would be worth having an assessment at the Black Dog Institute (in NSW), which specialises in this condition. Be aware that if you have it, your children may be susceptible and early testing could help put things in place to prevent or mitigate the condition for them. Daniel Siegel gives a case example of both the diagnosis and treatment (using mindfulness techniques) in his book Mindsight.

In reality, Depression creeps up on most people and they miss the early signs. These include: withdrawing incrementally from social contact, losing pleasure in things you normally find joy in, becoming over-critical of yourself and others, feeling tired all the time and having trouble being organised and strategic. Thought patterns start to become disorganised and it takes you longer to do tasks you would normally do easily. Mistakes creep into the work and everyday working memory really struggles.

Many people respond at this stage by withdrawing more, covering up mistakes and even having naps during the day at work. Of course many people also respond by increasing stimulants like coffee, cigarettes and even cocaine; others try to seek comfort in food, sex, gambling, shopping and alcohol and/or marihuana. These things only make the problem worse. Also your immune system suffers in Depression so physical illnesses and accidents also start happening and are often wrongly seen as being the problem. If these symptoms persist for longer than a month, there is a real risk that Clinical Depression will arrive and if left untreated, suicide is a great danger. (The two greatest at-risk groups for suicide are young people — for whom it is the biggest single killer — and middle-aged to older men).

The most important first step is to admit to yourself, without shame, that you are not travelling so well and then tell someone you trust. Seek professional help via your GP as soon as possible. I later provide a whole chapter on what else helps.

However, the problem with what I have just said is that the depressed person themselves doesn't think they are depressed or, if they do, are often too embarrassed to tell someone else. So if you notice a friend or a colleague showing some of the signs mentioned above, or you simply notice them shutting down or acting out of character, speak to them. Tell them kindly (and privately) what you have noticed and ask if you can help them in any way. Ask their permission to speak to a family member or friend, with or for them, and help them find a professional to help them as quickly as possible. Keep connected with them even if they seem reluctant or hostile.

If a colleague takes time off work or is asked to go on leave due to their Depression, make sure you keep in contact with them. Ring them regularly, invite them to office social activities, and talk about when they are coming back. Don't leave a colleague off work feeling rejected and isolated, even if they don't seem to want your contact. You need to have patience and a thick skin when dealing with someone who is depressed. There is a website called RUOK?, which has a lot of great resources about how to have this conversation. It may save a life.

If you don't feel confident enough to approach someone directly, two of your colleagues have shared great ideas with me. One compiled a list of symptoms of Depression, took them to his colleague and asked: "What would you do if you had a client presenting this way?" The colleague answered: "Get him to a shrink." "Great!" said his mate. "I've booked an appointment for you at 2pm today." Or a less direct approach could look like this. A lawyer became concerned about a colleague she didn't know very well. She gathered together some pamphlets from Beyond Blue and the Black Dog Institute and put them in an anonymous brown envelope. When no-one was looking, the lawyer quietly handed it to her colleague. Nothing was said. A few months later the colleague came to her one day and said: "Thanks for the envelope, it was very helpful." Job done!

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What Anxiety Looks Like

Some people experiencing depression will actually show signs of anxiety. For some, the two are linked. The feeling you are not coping can produce anxiety symptoms to keep you away from awkward situations. Others become depressed after struggling with anxiety. And many experience anxiety without depression.

There are many kinds of anxiety. **Phobias** are fears about specific objects or activities, such as: agoraphobia (fear of large spaces), claustrophobia (fear of confined spaces), arachnophobia (fear of spiders) and so on. There are almost as many phobias as there are people. We all have at least one secret one. They only become a problem if our schemes to avoid our fear stop us doing other things we want to do. Phobias can become that serious but they are eminently treatable, so seek assistance.

Obsessive Compulsive Disorder can be seen as a massive phobia, for example, fear of germs, gone rogue. It may start from a relatively simple thing, such as getting sick because you didn't wash your hands. You become much too focussed on washing your hands properly, say before you eat. You feel relief when you do this. So washing your hands and that feeling of relief get wired into your brain. Soon you are washing your hands in case you might eat something and, eventually, you are compulsively washing your hands all the time, feeling no relief. This is what Norman Doidge refers to as the shadow side of neuroplasticity. "What's fired together wires together." This, coupled with the adaptability of the brain, means you have to keep doing more to get relief. You will note this is very similar to addiction and is indeed successfully treated if viewed as such. Doctors Jeffrey Schwartz and Rebecca Gladding have written a brilliant book called You Are Not Your Brain in which they describe this process and propose a self-directed, mindfulness therapy to treat it.

Generalised Anxiety Disorder is where you are anxious all the time about just about everything. Your friends and family, perhaps, view you as a worrier, but it's not as simple as that. There is growing evidence that some of us simply arrive more anxious than others; mum was anxious when she was having you. Again, there are drug-free therapies that can assist you here.

Acute Stress Disorder and **PTSD** are also anxiety disorders that spring from experiencing trauma. It is perfectly natural to have this reaction after receiving a nasty fright, or a series of them, but the result for some people is that they get stuck in the mode of expecting more bad things to happen and don't have the sense that it is a memory they are reacting to, not a present event. And remember, lawyers can get a version of this from what has happened to their clients. Once again there are very successful treatments now available.

Whichever type of anxiety you may have, they all feel pretty much the same. You experience palpitations, sweating, a knot in your stomach and are easily startled. Some people experience vertigo and light headedness and their mind keeps gnawing away at today's problem. It is difficult to get to sleep and hard to get enough hours of deep sleep as your brain is still trying to solve the problem while you sleep. Typically with anxiety, you try to avoid situations that will make you anxious and, just as typically, this means the number of situations that make you anxious also grow. What seems natural to quieten the symptoms down, actually makes them worse over time. Reaching for drugs and alcohol to take the edge off worries seems natural too. But I think it's now been made clear that is a temporary solution that only makes the longer term problem worse. Throwing yourself into your work doesn't help either. Therapies using mindfulness techniques to help you approach rather than avoid are having much success in this area. As with all brain illnesses, the sooner you seek treatment, the sooner you will get relief.

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PART 2: What the Workplace Can Do

It Feels Personal: Managing Conflict and Bullies

The most 'sick making' things in the Australian workplace are unresolved conflict and the proliferation of bullies. The Law, sadly, is probably the sickest section of the workplace in this regard. Eighty per cent of Australians leave their job due to unresolved conflict. Seventy per cent of lawyers quit the Law altogether after working for only five years. So I think it is fair to conclude unresolved conflict is a major issue in legal workplaces.

As previously mentioned, one in five Australians will suffer from a debilitating mental (brain) illness in their life time. One in three lawyers will. Also as previously mentioned, one in two female lawyers and one in three male lawyers report that they have been harassed in the workplace. The Australian Productivity Commission estimates that bullying costs the economy about $14.8 billion a year and that a single episode of bullying in a workplace can cost $250,000. (Cost estimates taken from *Bully Blocking at Work* by Evelyn M. Field, 2010.) I think these figures are connected and it is clear that workplace relationships are far from safe in Australia. The greatest threat to your wellbeing at work is each other!

Evelyn Field makes the very helpful distinction between the intentional bully and the unintentional bully. Legal workplaces are replete with both. Both kinds can be difficult to deal with; use Field's book to help you with the unintentional bully. She will help you identify bullying behaviours, respond constructively to them and record them if necessary. John Clarke, whose book *Working with Monsters* is a classic text in the field, states that about one in a thousand women and two in a thousand men are workplace psychopaths. (Not the murdering kind, but they can make your life at work hell.) I strongly suggest you get a hold of his book and learn to identify these guys and follow his strategies for dealing with them.

If you identify yourself as the bully, seek help from a coach or counsellor to change your behaviour before it wrecks your health and career. If you identify your colleague or boss as a bully, once again seek advice before approaching them. Don't stay in an unsafe situation without support from someone. If there is no-one at your workplace you can trust, consider changing jobs. WorkCover has advice about this and can assist if you are being bullied at work.

I should add that you are not being bullied just because you are being corrected, disciplined or asked to do something you don't want to do, if it is a reasonable request and you have been spoken to politely. Your manager *can* tell you what to do. And managers, just because you can tell someone what to do, it doesn't give you licence to micro manage. You must always be respectful.

If you are in conflict with someone at work, seek help to resolve the conflict as soon as you can. There is nothing wrong with conflict per se. In fact John Gottman, the world's leading marriage expert, says every relationship, no matter how solid, will eventually have some conflict. His famous dictum is: "It's not the rupture, it's the lack of repair" that is the problem. If neither partner can move to apologise nor repair, the relationship will collapse; if only one does, it will limp on for a while until the appeaser explodes. If both can move to repair, the relationship will last. The same is true of workplace relationships.

Andrew O'Keeffe, who we've mentioned before, says there is a thing called the "paradox of the family" in teams. We start reacting to each other as if we are fractious siblings and our bosses as if they are our parents. This is because our brains are calibrated to be in small groups from our hunter gatherer past, and when we are in one, we think it's our family. This is why things often are seen as being an attack and feel personal when they are not. It explains why workplace fights can be so intractable, just as they are in warring families. (Family Law lawyers will know this dynamic well.)

A daily mindfulness practice, which we will discuss in section 3, helps. If you are practising mindfulness you can see earlier when you are over-reacting or notice sooner your colleague's hurt look. This prevents some of the conflict or at least stops it from getting out of hand. Obviously, this is not always possible, so when you realise you have a problem with a colleague, if you feel safe to do so, move to repair it. Approach them privately in a quiet moment, when they have time to listen, and tell them you've noticed the rupture and you want to repair it. Own up to anything you need to apologise for or could have done better. Ask them what they need from you to fix the situation; resolve to try harder in future. If that doesn't sort it, then go to a third, neutral person you trust and seek their help to resolve it. EAP, human resources, or even an external mediator can all be useful. It is not an option to leave the problem unresolved.

Workplaces need to respond quickly, sensitively and decisively to resolve conflict between staff. Not doing so is a failure of non-delegable duty of care to all staff and risks preventable psychological injury to individuals. If your organisation needs training in this area, get it. Put policies and procedures in place to deal with conflict and train all staff. Productivity, staff retention and profit will all benefit accordingly.

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Fostering Positive Relationships: The Role of Coaching and Mentoring

One very practical thing workplaces can do to foster more positive relationships is to provide a structure to nurture them. One excellent way is to introduce a mentoring program. There are many models for this and quite a few consultants that can help you establish one.

Mentoring is a cost effective way of pairing your more experienced staff with less experienced staff or those who might be isolated in their roles. It is important to prepare properly, be clear what you are trying to achieve, and plan, monitor and review all programs. The NSW Government's *Mentoring Made Easy: A Practical Guide* walks you through the essential steps. It is well documented that mentoring programs properly planned and run, provide huge benefits for mentees, mentors and the organisation. It is also a very strategic buffer against the kind of bullying behaviour described in the last section. You will also find that productivity goes up and recruitment costs go down. Plus, over time, those who start out as mentees will become your next generation of mentors and the culture of the whole organisation and hopefully the profession changes.

For lawyers working on their own or in small firms, peer mentoring models are available or it is possible to seek out someone you respect from outside your work place to fulfil this role for you. I have been told of peer mentoring that takes place in small country towns between professional small businesses like pharmacists and doctors getting together with accountants and lawyers. Having someone to talk to about what skills you need, how to cope with stress and how to make positive work based decisions is invaluable. The Law certainly has, in the past, had a strong tradition of informal mentoring. This needs to be revived and supplemented in larger organisations with formal mentoring programs.

Perhaps the block to this has been the increase of competitiveness between lawyers and the rise of aggression that seems to have come with that. It was not always so and does not need to be so. A collegiate relationship is the thing I hear lawyers desiring the most. Those working in Collaborative Law know this only too well and their mental health and happiness at work are testament to this. If you could find these collegiate relationships at work, perhaps you would spend less time in the pub, trying to find them there.

A complementary approach could be providing formal coaching to those in your leadership teams. Coaching is task oriented rather than relationship based and is short-term rather than long-term. It concentrates on specific skills the employee needs in their role. It is useful when a person goes into a new role or is assessed as needing skills development to perform their task. Making sure your leaders are appropriately skilled ensures they will foster the environment your employees can flourish in.

Both of these programs must also be supplemented with regular, relevant, skills based training for all staff. When roles change, the organisation or the systems change, staff will need training to help them quickly adapt. Feeling competent goes a long way to being competent. Feeling supported by the workplace to make the changes makes staff more likely to make those changes quickly and with good grace. The how is as important as the what.

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Wellbeing Programs

I have been involved with a number of legal organisations which have implemented wellbeing programs as a way of keeping the wellbeing of staff at the centre of everything they do. These include Legal Aid NSW, Office of the Director of Public Prosecutions NSW, Office of the Commonwealth Director of Public Prosecutions and the Royal Commission into Child Sexual Abuse (Sydney). As you can see, these are workplaces where the risk of Vicarious Trauma and the workload pressure is high. I am also aware a number of law firms are starting down this path. These organisations are rising to the challenge of their duty of care to their staff. The Minds Count Foundation has issued aspirational guidelines for safe legal workplaces that many organisations have signed up to.

I just want to lay down the best way I have seen these programs implemented. First of all, it is helpful to survey all staff and ask them what their concerns are. Second, clear policies around bullying and harassment and grievance procedures need to be in place with everyone trained in how to use them. Leadership must be convinced of and trained in what fosters wellbeing and commit to bringing it about for all in their organisation. Coaching around this for the leadership team would be a great place to start.

Next a wellbeing committee needs to be convened, drawing from all levels of staff, and to be a mixture of volunteers and draftees. Once convened the committee should meet regularly and establish a communication strategy with staff. An intranet site and newsletter are a good start. The website should inform staff of wellbeing activities being offered, keep canvassing for ideas and provide links to other wellbeing resources.

Activities could include: mindfulness classes and groups, yoga, exercise groups, altruistic activities, bands and choirs, and opportunities for staff to meet new employees or those in sections they don't see much of. One organisation used a "speed dating" format to achieve the latter, which all participants thoroughly enjoyed. Guest speakers and training in resilience related topics are useful. Management should attend these first and then the staff. Debriefing and regular wellbeing checks are another key feature.

A feedback loop must be established to assess what measures are helpful and what additions and fine tuning is needed. This is a fluid, evolving process. Library staff need to be resourced to provide resources and EAP must be a crucial link with all of this, as should the mentoring and coaching programs mentioned above.

The aim is to embed wellbeing into every layer of the workplace and keep working at it. The productivity, creativity and staff retention rate improvements will astound you. You will wonder why you didn't do it years ago.

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WorkSafe Victoria	*Healthy Workplace Kit*

PART 3: What You Can Do to Stay Well and Flourish

In this final section I will give you a summary of what the wellbeing research is telling us about how to keep fit and well. This includes the broader categories of body, mind, relationships, skills and rest.

Body

I'll start with **sleep**. Wellbeing is founded on sleep. Most adults need at least seven to nine hours of sleep every night. Some people need a little less, some need a little more. You need a sleep routine that fits in with your circadian rhythms, which in turn fit in with the sun. So, get up not too long after sunrise, actually get a look at the sun if you can, work during daylight hours, turn laptops off a good couple of hours before going to bed (they mimic the sun as far as your brain is concerned and so keep you turned on when you should be shutting down) and go to bed seven to nine hours before you are due to get up. Preferably get up and go to bed at the same time every day. Sleep in a dark quiet room designed only for sleeping and keep alcohol consummation in the evening earlier and moderate. Establish habits around sleeping and once you find the combination that works, stick to it. If you are having difficulty, consult a sleep specialist. Deep sleep is where your body gets a chance to repair damage done through the day and is absolutely crucial to staying well. They use sleep deprivation as a form of torture you know.

Exercise is the next crucial aspect of wellbeing. You need to do a minimum of five hours' exercise a week or at least 40 minutes a day. More regular bursts of shorter time exercise is more beneficial (and safer) than one or two big bursts a week. Do something that is manageable for your level of fitness, but still produces a puff and a sweat. Ellen Langer's "Chamber maid" experiment showed that if you ***mindfully*** exercise, i.e. notice what you are doing while you are doing it, this will yield even better results. So I suggest some of your exercise sessions should be done without electrical stimulation. Put your mind on your exercise, not off it. Vary the exercise to keep it fun and challenging, that way you will stay interested.

Diet is also crucial. Candace Pert's *Everything You Need to Know to Feel Good* is a great guide here. The message is simple: eat fresh, natural and not too much, and drink alcohol in moderation. Obviously allow yourself treats and enjoy your food. Eating with others (who are safe and good company) is better for you than eating alone.

Mind

Learning a **mindfulness technique** and practising it for up to 20 minutes every day is how your brain exercises. The science shows clearly that mindfulness thickens the prefrontal cortex areas involving self-regulation and positive emotions. It lowers the fear centre activity, it pumps more myelin (which strengthens and promotes synaptic connections) into the brain and it raises immunity. It helps focus and attention (because that is what is being trained) and helps you read social cues better. As I hinted at above, you combine exercise and mindfulness by mindfully exercising. An example of this is Total Immersion swimming, which helps you swim faster and enjoy the whole experience of swimming so much more.

There are many, many mindfulness techniques and I will give you a list of resources at the end of this chapter. Once you have found a place to start, establish the habit, even with as little as five minutes a day to start with. Then grow it, vary it, gradually make it more difficult and make it part of your daily routine. Your brain will start to show physical changes within eight weeks of practice and your body and mind will feel the benefit.

A transferable mindfulness practice, which I would recommend for work and to help you make the transition to and from work as well as help you change gear throughout the working day, is Adam Fraser's *The Third Space*, which will also be in the resources at the end of this chapter.

Relationships

Social connection is essential to most of us (excluding only psychopaths, really). Having cordial, safe and respectful relationships at work as described above is important, as well as connecting with loved ones and your community. We are a group animal, we need positive relationships. They key word here is positive; toxic relationships are no good to anyone. Resolving conflict at work and at home lowers stress and gives us one less thing to worry about. The longstanding legal custom of **pro bono** work is a great way to make and keep connections too.

Mentors, coaches and professional supervisors can help you gain and keep perspective about the work. They can help with skills and decisions. Doing this for someone else also turns out to be extremely beneficial to you. So mentor and seek mentors.

Training and professional development will also keep your skills up and help you feel confident to do the job and make good decisions. Take opportunities offered at work or, if necessary, seek outside avenues, but keep training. Don't restrict this to legal training; take the opportunity to go training that enhances your interpersonal skills, as well.

Using performance appraisal and peer review to sharpen practice is smart. They can also be an opportunity to ask yourself at least once a year: "Do I still want to do this job?" or "What do I want to be doing two years from now?" Giving and receiving constructive feedback is productive and reviewing where you are in your career is critical to wellbeing. Boredom, stalling in your career and feeling trapped are the alternatives.

Seek **counselling** if you begin to find the worries piling up at work or at home. The Law Society can provide up to six free counselling sessions for you. Many firms and agencies have EAP; with a medical referral you can get up to 10 Medicare assisted sessions with a psychologist or social worker.

Other

Take a **holiday** preferably of four weeks' duration every year. A break away from the work is the best way to recover and rejuvenate. We all need down time and time to play. We need time alone and with others; we all benefit from a change of scenery. See if you can manage to stay off the work phone and the computer too, that would be a holiday in itself!

A sense of **humour** is an essential resilience tool. The ability to laugh at oneself and share a joke with others is a human gift. It is also a great stress reliever; it actually stops our brain pumping out stress hormones and relaxes us. (A good cry is a good thing too.) I don't mean black humour that is cruel or indifferent to the suffering of others, I just mean, good old-fashioned (respectful) fun. Paul Ekman's extraordinary work tells us that, if we assume a facial expression, the mood we are depicting will follow. So smile and you will soon experience an uplift of mood. And remember it goes the other way too, frown and your mood deteriorates. If you were laughing six months ago and you aren't now, you probably need a break. If you are laughing at everything, you definitely need a break!

Have an **exit plan** in mind. Should you be retraining, downsizing or saving money? Can you get out if you need to? This usually takes planning. If you are in private practice, do you have or need a succession plan? What are you doing about superannuation? Knowing you could leave or change jobs if you need to can greatly enhance resilience. Plan ahead, don't get stuck.

Being involved in **meaningful work** that helps others and earning your living honestly by deploying your skills is a great antidote to stress. Many lawyers are already doing this and flourish in their very difficult jobs because of it. If you are at peace with how your organisation does business and treats its staff and you feel it is doing the right thing by others in the world, you will be more content. The Buddhists call this **right living** and it certainly helps you sleep at night.

And if all else fails, **quit!** The job isn't worth your health or the wellbeing of your family. But as mentioned above, it's far preferable to plan and time your own exit, rather than have it foisted upon you.

Use the references that follow to help you implement these strategies in your working life and take responsibility for your own resilience.

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Closing Statement

It is my hope that this little booklet has succeeded in its aim to give lawyers and their employers a better understanding of how stress works, how it affects you at work and what to do about it at both an organisational and personal level. I hope that brain illness has also been explained and is understood a little better. I hope it is clear that, as well as developing your considerable technical skills, you will also realise how important it is to expand your emotional and people skills. Given the cited levels of distress already apparent in your profession, it is my hope that you will use some of these resources and seek out others to help you make your workplace safe and enjoyable and create an environment in which you may all flourish, not just survive.

For the sake of your own health, your partners, families and friends and all those you serve, learning resilience is absolutely crucial for the whole profession and the society it operates in. Seek out mentors and guides to help you and be kind and respectful to each other.

Thank you for your dedication, your skill and your hard work and for all you do for the rest of us. Go forth and flourish.

ROBYN BRADEY 2020