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## Mitigating Secondary Stress in Military Justice

By Major Adam S. Wolrich

**Military justice (MJ) practitioners<sup>1</sup> continuously immerse themselves in often the most traumatic moments of other people's lives.** Whether prosecuting a sexual assault, or any other crime of violence, defending someone accused of it, or representing a victim, to do their job, and certainly to do it the *right* way, MJ practitioners delve into and revisit trauma, at length and in detail, virtually every day. As practitioners increasingly handle cases of sexual violence—cases that often result

in contested trials and demand heightened attention—their professionally-required exposure to trauma increases. This required exposure comes at a price. Military justice practitioners are vulnerable to secondary traumatic stress (STS) and vicarious trauma (VT), which is harmful to them, their relationships, and can influence their ability to seek justice.<sup>2</sup> This article emphasizes the importance of raising awareness of STS and VT, and offers strategies MJ leaders can apply to mitigate their effects.

### The Effects of Trauma on Military Justice Practitioners

Secondary traumatic stress, also referred to as compassion fatigue, is defined as the “natural consequent behaviors and emotions resulting from knowing about a traumatizing event experienced by a significant other,” and “involves symptoms analogous to those seen in [Post-Traumatic Stress Disorder], i.e., re-experiencing images of the traumas of the person receiving aid, avoidance of reminders of this material, numbing in affect and function, and persistent arousal.”<sup>3</sup> Vicarious trauma is “trauma reactions” due to exposure to others’ traumatic experiences over time.<sup>4</sup> This aggregate effect can result from repeated exposure to trauma victims and traumatic material, such as graphic images.<sup>5</sup> Vicarious trauma can manifest in “physiological symptoms that resemble posttraumatic stress reactions,” for example, flashbacks, nightmares, obsessive thoughts, numbness, dissociation, and in “disruptions to important beliefs, called cognitive schemas, that individuals hold about themselves, other people and the world.”<sup>6</sup> One such significant disruption may include a “decreased sense of self-efficacy.”<sup>7</sup> Although related, STS and VT are distinct concepts. For the purposes of this article, however, in view of the similarities in their causation and effects, they will be referred to as STS or secondary stress.<sup>8</sup>

There is a very real risk that professionals with regular contact with trauma victims, including social workers, police officers, sexual assault counselors, and MJ practitioners, experience STS<sup>9</sup> as an “occupational hazard.”<sup>10</sup> What makes this even more hazardous to MJ practitioners is a limited understanding of STS despite so many practitioners having personally experienced or observed it.

### Avoiding Discomfort

An MJ practitioner experiencing secondary stress may have difficulty dealing with victims.<sup>11</sup> As a result, trial counsel—perhaps without even understanding why they are feeling uncomfortable—may attempt to avoid interacting with victims. This damages their relationship with victims and, consequently, their ability to establish rapport and prosecute the case. Military justice practitioners may then lose confidence

and their ability to empathize with victims, making them less effective. Victims who sense this might not only be less effective on the stand, but also may be more reluctant to continue to participate in the trial.

### ***Changes in World-View: Cynicism, the Jaded Practitioner, and Victim-Blaming***

The same trial counsel, or any defense or special victims' counsel, repeatedly exposed to victims and their trauma, may adopt a "cynical view of humanity."<sup>12</sup> Many MJ leaders have observed subtle changes of their personnel's world-view as those they supervise adopt the persona of the "tough prosecutor" or "jaded defense attorney." These changes might be regarded as a harmless façade—a work-identity acquired as a rite of passage, but they could be signs that a MJ practitioner's perspective has become distorted, clouding objectivity and compromising their ability to do the job.

Additionally, MJ practitioners experiencing STS may comment, for example, that all Soldiers are "dirt bags," mock victims, or make crude attempts at humor concerning the circumstances of their cases. The same prosecutors who argue in court that victims must not be blamed, begin to resent and—in subtle, insidious ways—blame them.<sup>13</sup> These comments may be brushed aside, ignored or accepted as "just how it is" in a MJ shop. This is a mistake. By accepting and normalizing these comments, MJ leaders miss the opportunity to identify and address secondary stress in their personnel and maintain a culture of respect.

### ***The Crusade***

The pendulum of secondary stress' effects can swing drastically in the other direction. As opposed to resenting a victim (or a client accused of a crime), MJ practitioners experiencing STS may engage in "rescuing behaviors" and, in doing so, "fail to maintain professional boundaries."<sup>14</sup> Without a sufficient understanding of STS, MJ leaders may accept these behaviors, normalizing them with light-hearted comments, such as, "there they go again, on another crusade!" That is, until it is too late, and the attorney crosses an ethical line. Because it is critical to distinguish between an unhealthy crusade and zealous advocacy, MJ leaders

should pay attention to the frequency with which their subordinates engage with witnesses (or clients), whether and to what degree their subordinates have become intertwined in their witnesses' (or clients') personal affairs or family, and, whether their subordinates' objectivity seems compromised.

### ***The Struggling Practitioner***

Some MJ practitioners struggle. They make mistakes and are unable to learn from them. They exhibit a lack of judgment and simply avoid work. Struggling practitioners, however, might be failing—at least in part—because they are experiencing secondary stress. The instinctive solution is to provide additional training, but this might not help. However, increasing their exposure to traumatic materials during the training, could, in fact, make things worse. Military justice leaders should develop strategies to improve poor performance while considering the possible effects of STS.

The scenarios discussed above represent some common manifestations of STS at the office. Those experiencing secondary stress, however, bring it home with them. Leaders should explore whether their subordinates' difficulties, both at work and at home—damaged relationships, health problems, difficulty concentrating, and unhappiness—are actually the effects of STS.

### ***Why Military Justice Practitioners are Vulnerable to STS***

Attorneys may be more vulnerable to STS than other professionals who regularly interact with trauma victims.<sup>15</sup> This may be due to the lack of training in, or awareness of, trauma and its effects; despite the fact that trauma is, for many lawyers, their business.<sup>16</sup> Military attorneys, generally, may be at an even greater risk of STS than their civilian counterparts.<sup>17</sup> And several factors suggest that MJ practitioners, in particular, are even more vulnerable to STS.

First, MJ practitioners have become specialists in sexual assault litigation. This type of material is "uniquely traumatizing."<sup>18</sup>

Second, despite efforts to increase MJ practitioners' expertise and experience, very often, relatively inexperienced attorneys are assigned cases involving trauma. This is "noteworthy because for many beginning

mental health professionals, youth and inexperience increase the risk" of experiencing negative effects due to trauma exposure.<sup>19</sup>

Third, short assignments in military justice may contribute to STS vulnerability. A "periodic 'fresh start' can easily become a detriment" as personnel have a "tremendous incentive to avoid the problem in the hopes of biding their time and moving on to the next assignment."<sup>20</sup> Judge advocates, naturally concerned with maintaining their careers and avoiding the historic stigma associated with seeking mental health treatment, might adopt the strategy of "punting" until their next assignment rather than disclosing they are experiencing STS and seeking help.

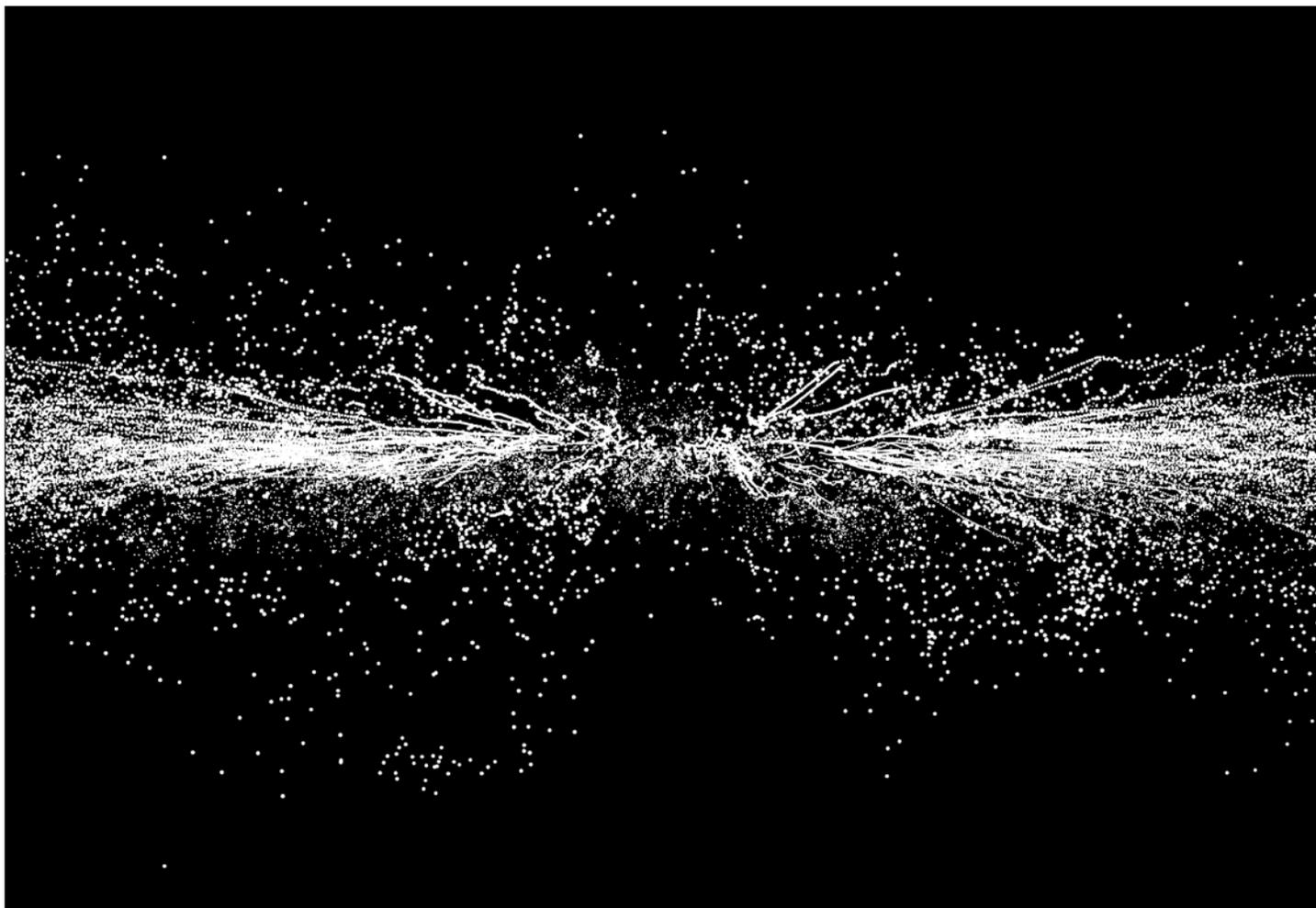
Fourth, MJ practitioners, need to be, and are perceived to be, tough.<sup>21</sup> This is, to a degree, adaptive to military culture. In order to advise their commanders, trial counsel must exude resilience; in order to gain the trust of their clients, defense counsel and special victims' counsel must project confidence. Maintaining a resilient persona, however, becomes maladaptive when it prevents them from reaching out when they need help and when it obscures their leaders' and colleagues' ability to see STS' red flags.

Finally, perhaps MJ practitioners' most significant vulnerability to STS results from the reduced emphasis placed on it.<sup>22</sup> As an example, presently, STS training is generally not required.<sup>23</sup>

### ***How to Mitigate STS in Military Justice***

#### ***Raising Awareness***

Initially, in order to mitigate STS, leaders need to acknowledge it presents a legitimate risk to MJ practitioners. The sparse literature that focuses on STS and attorneys<sup>24</sup> suggests that STS is prevalent in the MJ community.<sup>25</sup> Military justice leaders should therefore prioritize STS training. This would require minimal time, virtually no expense, and could entail simply having personnel read and discuss articles, or sending them to training so they can share what they have learned with the rest of the office. Training not only raises awareness of secondary trauma, but also can mitigate



its effects.<sup>26</sup> Further, by emphasizing STS training, leaders “normalize” STS and create an environment in which MJ practitioners have “permission” to reach out for help and take care of themselves without (or with a reduced) concern of a negative stigma.<sup>27</sup> Once MJ leaders raise STS awareness, they can explore additional strategies to create an even more supportive environment.

#### ***Creating a Supportive Environment***

Military justice leaders may consider the following in building a supportive environment to mitigate STS:

- *Balancing Caseloads.* Assigning diverse caseloads, i.e., caseloads that are not comprised of exclusively trauma-related matters, “is associated with decreased” secondary trauma.<sup>28</sup> This requires deviating from rigid models in assigning cases and considering the extent of traumatic material in each attorney’s

case load. Because senior defense counsel might have more flexibility in assigning cases, they might, very logically, be inclined to detail the same type of case to attorneys who have relevant, prior experience. Senior defense counsel should nonetheless consider STS when assigning several, similar cases (e.g., child pornography) to their attorneys because they have, at least relative to others in the office, become the “experts.”

- *Using Experienced Practitioners.* Practitioners with more life and professional experience are less likely to experience STS.<sup>29</sup> To the extent possible, a trial team should include an experienced/older practitioner to support other team members.
- *Relying on Each Other.* Military justice leaders can transform physical training, legal training, meetings, and staff rides into opportunities for group support. Simply providing personnel with an

opportunity to discuss cases, and how they think and feel about them, can mitigate STS.<sup>30</sup> By effectively transforming every-day events into “peer support groups,” leaders can provide their personnel with the opportunity to reach out and help one another, “clarify colleagues’ insights, listen for and correct cognitive distortions, offer perspective/reframing, and relate to [their] emotional state.”<sup>31</sup>

- *Prioritizing Self-Care.* Military justice leaders should continue to emphasize self-care. Many MJ leaders already prioritize the well-being of their personnel, ensuring they take leave and have a healthy work-life balance.<sup>32</sup> They can take this a step further by integrating “self-care” into staff meetings. Dedicating a couple minutes to discussing how their personnel are taking care of themselves and their families nurtures the supportive environment that can mitigate STS. Military justice

leaders should also provide resources for self-care, support the use of counseling services, and provide personnel with STS self-assessment tools.<sup>33</sup>

## Conclusion

Virtually all MJ practitioners are immersed in trauma. Some experience secondary stress immediately; others could eventually. This might be an unavoidable occupational hazard, however, there is an opportunity to address it. Doing so requires a commitment to understanding STS and treating MJ practitioners with the same degree of care with which they are expected to handle their cases. **TAL**

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## Notes

1. Military justice (MJ) practitioners include trial counsel, defense counsel, special victims' counsel, MJ paralegals, and their supervisors (e.g., chief of justice, senior defense counsel, MJ noncommissioned officer in charge), referred to as MJ leaders in this article.
2. "It is noteworthy that [secondary traumatic stress] affects more than [relationships with victims and clients]; when lawyers are impaired, it affects justice." Major Evan R. Seamone, *Symposium: Sexual Assault: Military Justice, Culture, and Expectations: Sex Crimes Litigation as Hazardous Duty: Practical Tools for Trauma-Exposed Prosecutors, Defense Counsel, and Paralegals*, 11 OHIO ST. J. CRIM. L. 487, 491 (2014).
3. Andrew P. Levin, *Secondary Trauma and Burnout in Attorneys: Effects of Work with Clients Who are Victims of Domestic Violence and Abuse*, COMMISSION ON DOMESTIC VIOLENCE 1 (2009), [https://www.dccourts.gov/fccof-conference/2010\\_family\\_court\\_conference/articles/LevinWinter2008.pdf](https://www.dccourts.gov/fccof-conference/2010_family_court_conference/articles/LevinWinter2008.pdf).
4. Marlise R. Lonn & Maria Haiyasoso, *Helping Counselors "Stay in Their Chair": Addressing Vicarious Trauma in Supervision*, VISTAS ONLINE 2 (2016), [https://www.counseling.org/knowledge-center/vistas/by-year2/vistas-2016/docs/default-source/vistas/article\\_90\\_2016](https://www.counseling.org/knowledge-center/vistas/by-year2/vistas-2016/docs/default-source/vistas/article_90_2016).
5. Holly Bell, Shanti Kulkarni, & Lisa Dalton, *Organizational Prevention of Vicarious Trauma*, 84 FAMILIES IN SOCIETY: THE JOURNAL OF CONTEMPORARY HUMAN SERVICES 463, 464 (July 8, 2013), <https://www.ce-credit.com/articles/100716/PrevVicariousTrauma.pdf>.
6. *Id.*
7. Lonn & Haiyasoso, *supra* note 4, at 2.
8. Both secondary traumatic stress (STS) and vicarious trauma (VT) result from exposure to traumatic material, and "there is a consensus that STS and VT degrade the professional's ability to perform his or her task and function in daily life beyond the job." Levin, *supra* note 3. In fact, "[s]ome researchers, even those mindful of the academic distinction between all of the terms

- related to STS, suggest that because they are so intertwined, it is like 'splitting hairs' to delineate between [them]." Seamone, *supra* note 2, at 535.
9. Bell, Kulkarni, & Dalton, *supra* note 5, at 464-65.
  10. "The continuous or repeated exposure [to traumatic experiences] is one of the factors that make vicarious trauma an occupational hazard." Lonn & Haiyasoso, *supra* note 4, at 2.
  11. *Id.* at 3.
  12. *Id.*
  13. *Id.* at 2 (noting that "[s]ymptoms of Vicarious Trauma include cognitive distortions and changes in core beliefs"); see also Seamone, *supra* note 2, at 490 n. 17 ("Victim-blaming is sadly a common response in professionals who work with victimized persons."); see also, Mary Ann Dulton & Francine L. Rubenstein, *Working with People with PTSD: Research Implications, in COMPASSION FATIGUE COPING WITH SECONDARY TRAUMATIC STRESS DISORDER IN THOSE WHO TREAT THE TRAUMATIZED* 82, 87 (Charles R. Figley ed. 1995) ("The trauma worker's detachment from the survivor may result from identification with the offender, where the worker looks for culpable behavior in the survivor (e.g., 'victim blaming') and has difficulty with the victim's anger toward the offender.").
  14. Lonn & Haiyasoso, *supra* note 4 (commenting that "[s]pecific to vicarious trauma, supervisors are advised to watch for novice counselors . . . engaging in rescuing behaviors"); Seamone, *supra* note 2, at 510.
  15. Seamone, *supra* note 2, at 505 (concluding, based on a literature review that "[l]awyers may be more susceptible to secondary traumatic effects of sexual assault case material than even mental health clinicians" and social services workers).
  16. "While lawyers do not think of themselves as trauma workers, they serve in this function by default when their duties require them to evaluate and revisit any person's trauma." *Id.* at 504.
  17. "Professionals serving in uniform . . . are thought to be at greater risk than civilian professionals for developing secondary stress reactions due to both being exposed to the suffering of those they are [assisting] and to the demands associated with military operational stress." *Id.* at 531, citing Allen Rubin & Eugenia Weiss, *Secondary Trauma in Military Social Work, in HANDBOOK OF MILITARY SOCIAL WORK* 67, 69 (Allen Rubin et al. eds., 2013).
  18. Seamone, *supra* note 2, at 509 (synthesizing research and concluding that "[o]n balance, the research makes it clear that sexual offenses are among the most common contributors to [Secondary Traumatic Stress] in the practice of criminal law.").
  19. *Id.* at 521.
  20. *Id.* at 522.
  21. "This 'prideful warrior' posture is largely premised upon a singular notion of strength that can be undermined by the admission that the attorney feels overwhelmed or overcome by emotional feeling in response to evidence in a case." *Id.* at 533-34.
  22. "While attorneys surely experience legal countertransference during the exercise of their duties and professional responsibilities, they rarely have the tools to detect, evaluate, or address undesirable countertransference responses and reactions." *Id.* at 497.
  23. This assessment is based on my experience as a trial counsel, defense counsel, and senior trial counsel from

- 2011-2018; however, the Trial Counsel Assistance Program, Defense Counsel Assistance Program, and The Judge Advocate General's Legal Center and School offer relevant instruction.
24. See Seamone, *supra* note 2, at 503 n. 74.
  25. Dr. Levin's review of the research included the following: a study of Canadian prosecutors working with sensitive cases (e.g., domestic violence, incest) "revealed symptoms of demoralization, anxiety, helplessness, exhaustion, [and] social withdrawal;" a survey of 105 judges revealed that 63% experienced symptoms of VT; and further, after one year of collaboration with domestic violence and criminal attorneys, Dr. Levin found "varying degrees of psychological distress congruent with the syndromes of STS, VT, and burnout." Levin, *supra* note 3.
  26. "Trauma-specific education also diminishes the potential of vicarious trauma." Bell, Kulkarni, & Dalton, *supra* note 5, at 467.
  27. *Id.* at 466.
  28. *Id.*
  29. "Age and experience are inversely correlated with the development of vicarious trauma" and "younger and less experienced counselors exhibit the highest levels of distress." *Id.* at 465.
  30. *Id.* at 467-68.
  31. *Id.* at 467.
  32. Supportive environments allow for leave and other opportunities for personnel to engage in self-care. *Id.* at 466.
  33. Seamone, *supra* note 2, at 548-68 (describing assessment tools).