

BURNOUT IN THE PRACTICE OF LAW: IT'S REAL AND WHAT TO DO ABOUT IT

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ABSTRACT

Being a lawyer in Texas is not easy. This paper provides some basic information and tools to help lawyers understand and address the serious stress, mental health and substance use issues which so many attorneys face.

I. INTRODUCTION.

For those practicing law in Texas, it may be no surprise that lawyers suffer very high rates of mental health and substance use disorders. Lawyers are handed their clients' worst problems and are expected to solve them. They are supposed to be perfect or their reputations dwindle. If they make a mistake, it can be career changing or devastating to a client's life. There is little time to smell the roses, and when that opportunity comes, it is hard if not impossible to stop thinking about the fires which need putting out at the office. It is a tremendous understatement to say that the life of a lawyer can be very stressful and difficult.

For decades, researchers have looked at the strenuous lifestyle and bad habits of lawyers. They have found extraordinary differences between the mental health and substance use of attorneys compared to the general population.

A 2015 law review article noted that attorneys have the highest rate of depression of any occupational group in the United States.¹ Another study showed that attorneys suffer depression 3.6 times as often as the general population.²

With regard to alcohol use, researchers have understood since a major study in 1990 that attorneys have much higher than usual rates of problem drinking and mental health issues.³ Now, the details of the extent of the legal world's woes are revealed in two new major studies regarding the degree to which attorneys and law students suffer from such mental health and substance use disorders.

With regard to attorneys, in 2016 the American Bar Association Commission on Lawyer Assistance Programs and the Hazelden Betty Ford Foundation released a groundbreaking study of almost 13,000 employed attorneys. It showed that 21% of attorneys suffer from problematic drinking, defined as "hazardous, harmful, and potentially alcohol-dependent drinking" (some have referred to these people in the past as "alcoholics"), 28% suffer from depression, and 19% suffer from clinical anxiety.⁴ Perhaps even more disturbing, 36% reported drinking alcohol in a quantity and frequency that would indicate "hazardous drinking or possible alcohol abuse or dependence," 46% felt they suffered depression in the past, and 61% reported concerns about anxiety.⁵

As a reference to how these numbers stack up to the norm, about 6% of adults over 26 years of age suffer from problematic drinking⁶ (versus 21% of lawyers), and only 15% of doctors reported drinking alcohol in a quantity and frequency that would indicate hazardous drinking or possible alcohol abuse or dependence (versus 36% of lawyers).⁷

Likewise, a 2021 law school wellness study of nearly 4,000 participating law students at 15 law schools across the country showed similar results. In the study, 42% of respondents indicated that in the past year they had thought they needed help for emotional or mental health problems. Furthermore, 25% answered two or more of four questions that comprise the CAGE assessment, indicating as many as one-quarter of the law students should be considered for further screening for alcohol use disorder. The study also showed that 43% of law students reported binge drinking in

¹ See Lawrence S. Krieger and Kennon M. Sheldon, *What Makes Lawyers Happy? Transcending the Anecdotes with Data from 6200 Lawyers*, 83 *GEO. WASH. U. L. REV.* 554 (2015), also published as FSU College of Law, Public Law Research Paper No. 667(2014); see also Rosa Flores & Rose Marie Arce, *Why are lawyers killing themselves?*, CNN (Jan. 20, 2014, 2:42 PM), <http://www.cnn.com/2014/01/19/us/lawyer-suicides/>.

² See William Eaton et al., *Occupations and the Prevalence of Major Depressive Disorder*, 32 *J. OCCUPATIONAL MED.* 1079, 1085 tbl. 3 (1990).

³ See Justin J. Anker, Ph.D., *Attorneys and Substance Abuse*, Butler Center for Research(Hazelden 2014)(available at http://www.hazelden.org/web/public/document/bcrup_attorneyssubstanceabuse.pdf)

⁴ See Patrick Krill, Ryan Johnson, and Linda Albert, *The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys*, *Journal of Addiction Medicine*, Feb. 2016, Vol. 10, Issue 1, pp. 46-52, http://journals.lww.com/journaladdictionmedicine/Fulltext/2016/02000/The_Prevalence_of_Substance_Use_and_Other_Mental.8.asp

⁵ *Id.*

⁶ *Behavioral Health Trends in the United States: Results from the 2015 National Survey on Drug Use and Health*, U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, September 2015, <http://www.samhsa.gov/data/sites/default/files/NSDUH-FRR1-2014/NSDUH-FRR1-2014.pdf>

⁷ *Id.*

the past 2 weeks and 25% reported marijuana use in the past year.⁸ Additionally, 14% reported using prescription drugs in the past year without a prescription, 27% reported having an eating disorder, and 21% percent reported that they had considered suicide.⁹

One law school study found that before law school, only 8% reported alcohol problems. By the third year of law school, 24% reported a concern about having a drinking problem.¹⁰ Moreover, a 2014 Yale Law School study sent shockwaves across academia when it reported 70% of its law students had symptoms of depression.¹¹

Regarding suicide, lawyers have consistently been at or near the top the list of all professionals in suicide rates.¹² They have been found to be twice as likely as the average person to commit suicide.¹³

Obviously, these are major problems. No one wants to be troubled by thinking about these issues, but they demand real attention. This paper is an effort to provide some basic information and tools to help attorneys and others in contact the legal community understand and address the unique and substantial stress, mental health and substance use issues from which so many attorneys suffer.

II. DEFINING THE ISSUES.

While there are a large number of hardships faced by attorneys practicing law across the State of Texas, the following are some of the most common and most serious:

A. Anxiety Disorders.

Disorders relating to anxiety range from a general Panic Attack (which is Panic Disorder with or without Agoraphobia¹⁴) to specific phobias such as Social Anxiety Disorder (SAD), Obsessive-Compulsive Disorder (OCD), Posttraumatic Stress Disorder (PTSD), Acute Stress Disorder (ASD), Generalized Anxiety Disorder (GAD), Substance-Induced Anxiety Disorder, anxiety due to a medical condition, and anxiety disorder not otherwise specified.

Generalized Anxiety Disorder is prevalent in the legal community, although most lawyers would argue that its symptoms sound like what one experiences every day when practicing law:

1. Excessive anxiety and worry (apprehensive expectation) which occurs more days than not for at least six months about a number of events or activities (such as work or school performance);
2. The person finds it difficult to control the worry;
3. The anxiety and worry are associated with three (or more) of the following six symptoms present for more days than not for the past 6 months:
 - a. restlessness or feeling keyed up or on edge;
 - b. being easily fatigued;
 - c. difficulty concentration or mind going blank;
 - d. irritability;
 - e. muscle tension;
 - f. sleep disturbance (difficulty falling or staying asleep or restless unsatisfying sleep);
4. The focus of anxiety or worry is not about another disorder (panic, social phobia, OCD, PTSD, etc);
5. The anxiety, worry or physical symptoms cause clinically significant distress or impairment in social, occupation or other important areas of functioning; and

⁸ See, David B. Jaffe, Katherine M. Bender and Jerome M. Organ, *It is Okay to Not Be Okay': The 2021 Survey of Law Student Well-Being*, 60 *University of Louisvill Law Review* 441 (2021), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4127297#

⁹ *Id.*

¹⁰ See G.A. Benjamin, E.J. Darling, and B. Sales, *The Prevalence Of Depression, Alcohol Abuse, And Cocaine Abuse Among United States Lawyers*, *International Journal of Law and Psychiatry*, 1990, Vol. 13, pp. 233-246.

¹¹ See Yale Law School Mental Health Alliance, *Falling Through the Cracks: A Report on Mental Health at Yale Law School*, December 2014, <http://www.scribd.com/doc/252727812/Falling-Through-the-Cracks>

¹² According to a 1991 Johns Hopkins University study of depression in 105 professions, lawyers ranked number one in the incidence of depression. See William Eaton et al., *Occupations and the Prevalence of Major Depressive Disorder*, 32 *JOURNAL OF OCCUPATIONAL MEDICINE* 11, Page 1079(1990).

¹³ A 1992 OSHA report found that male lawyers in the US are two times more likely to commit suicide than men in the general population. See <http://www.lawpeopleblog.com/2008/09/the-depression-demon-coming-out-of-the-legal-closet/>.

¹⁴ This is a type of anxiety disorder in which you fear and often avoid places or situations that might cause you to panic and make you feel trapped, helpless or embarrassed.

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