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Moving Beyond Yoga: An Exploratory, Qualitative Study of Public Defenders' Solutions for Improving Work-Life and Effective Assistance of Counsel

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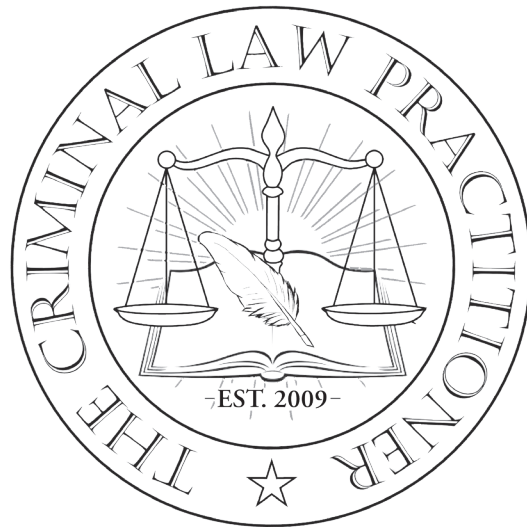
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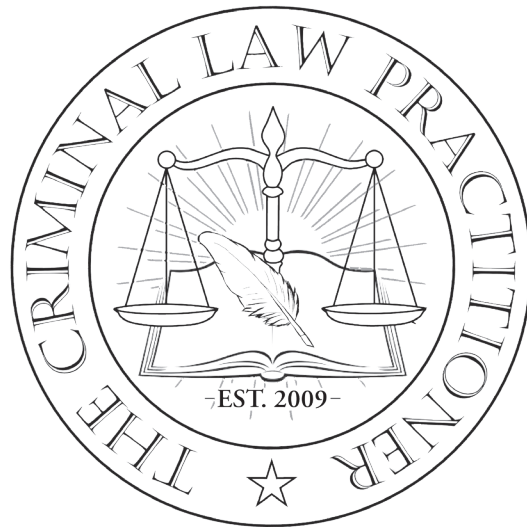
Moving Beyond Yoga: An Exploratory, Qualitative Study of Public Defenders' Solutions for Improving Work-Life and Effective Assistance of Counsel

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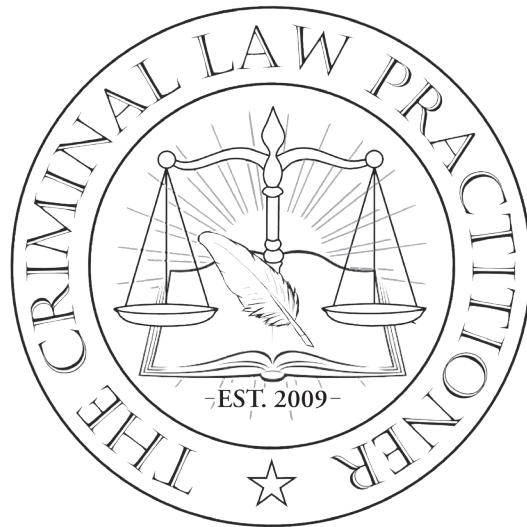
**THE CRIMINAL LAW
PRACTITIONER**

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MOVING BEYOND YOGA: AN EXPLORATORY, QUALITATIVE STUDY OF PUBLIC DEFENDERS' SOLUTIONS FOR IMPROVING WORK-LIFE AND EFFECTIVE ASSISTANCE OF COUNSEL

ALISA SMITH ¹

ABSTRACT

Public defenders are frontline workers defending the poor accused of crimes. Surprisingly, little research has focused on solutions for improving stress among these lawyers who are essential to effectuating the due process of law. This study employs a thematic analysis of public defenders' responses to open-ended questions concerning their lived experiences, motivations, and challenges, and their proposed solutions for improving their work-life balance and the criminal legal system. This preliminary study finds that public defenders are engaged and intrinsically motivated professionals who confront unyielding job demands and challenges. Respondents' proposed solutions are connected to their intrinsic motives and work engagement and address organizational and structural obstacles that lead to burnout or resignation. Two overarching and connected themes emerged for improving their work-life and the criminal legal system. The first concerns organizational improvements (support and flexibility in their work lives), and the second involves systemic changes (increased resources, reduced workloads, and fairer treatment of defendants). The connections between this study, prior research, and directions for future study are discussed.

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¹ Alisa Smith, J.D., Ph.D. is a Professor of Legal Studies at the University of Central Florida. I am the sole owner and author of the study in this Article. The study was approved by the University of Central Florida Institutional Review Board. I am thankful to the leadership of the National Association for Public Defense, especially President Lori James-Townes, for encouraging their membership to participate in the study and for distributing to them my survey and recruitment message. I am also extraordinarily grateful to the survey participants, whose responses provided the data for this study and whose anonymity I have protected. See Part II of this Article for additional discussion of the study's design and methodology.



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INTRODUCTION

Lawyers are less happy and healthy than other professionals; they “are among the occupations at highest risk for burnout and other stress-related problems. As a group, they have high rates of anxiety, depression, substance abuse, divorce, and suicidality.”² Overwhelming anecdotal and empirical evidence indicates that lawyers are disenchanting, and the news reports a specific trend among public defenders rapidly leaving their jobs and public defender organizations having difficulty recruiting new lawyers.³

Yet, applications to law school continue to rise.⁴ The occupational outlook expects a faster-than-average growth rate of eight percent between 2022-2032.⁵ Lawyers, although stressed, report high satisfaction, noting that they would not switch careers if given the opportunity.⁶ This sentiment is particularly true of public interest attorneys, who report overall satisfaction and are highly motivated in their careers.⁷ A more recent survey found

² Sherrie Bourg Carter, *When the Enemy Lies Within: Risk for Professional Burnout Among Family Lawyers*, 20 AM. J. FAM. L. 160, 160 (2006).

³ See, e.g., Erika Bolstad, *Public Defenders Were Scarce Before COVID. It’s Much Worse Now*, STATELINE (June 21, 2022), <https://stateline.org/2022/06/21/public-defenders-were-scarce-before-covid-its-much-worse-now/>; Jonah E. Bromwich, *Hundreds Have Left NY Public Defender Officers Over Low Pay*, N.Y. TIMES (June 9, 2022), <https://www.nytimes.com/2022/06/09/nyregion/nyc-public-defenders-pay.html>; Matt Perez, *Low Pay a Deterrent to Would-Be Public Defenders*, LAW360 (Oct. 17, 2021), <https://www.law360.com/articles/1430492/low-pay-a-deterrent-to-would-be-public-defenders>; Andy Pierotti, *The Sixth: Public Defender Shortage*, WABI-TV (Dec. 5, 2022), <https://www.wabi.tv/2022/12/05/sixth-public-defender-shortage/>.

⁴ Susan L. Krinsky, *Early Trends in the 2023 Admission Cycle*, LSAC: LAW: FULLY, (Nov. 2, 2022), <https://www.lsac.org/blog/early-trends-2023-admission-cycle>.

⁵ OCCUPATIONAL OUTLOOK HANDBOOK: LAWYERS, U.S. DEP’T OF LAB. BUREAU OF LAB. STAT., <https://www.bls.gov/ooh/legal/lawyers.htm> (last visited June 5, 2024).

⁶ Debra C. Weiss, *Lawyers Report High Levels of Satisfaction with Their Jobs, but Stress Remains an Issue*, SURVEY FINDS, ABA (Apr. 12, 2023), <https://www.abajournal.com/news/article/lawyers-report-high-level-of-satisfaction-with-their-jobs-but-stress-remains-an-issue-survey-finds>; Kathleen E. Hull, *The Paradox of the Contented Female Lawyer*, 33 L. & SOC’Y REV. 687, 690 (1999).

⁷ Valerio Baćak, et al., “*Fighting the Good Fight*”: *Why Do Public Defenders Remain on the Job?* 31 CRIM. JUST. POL’Y REV. 939, 943–45, 950–56 (2020) [hereinafter Baćak, et al., “*Fighting the Good Fight*”]; Milan Markovic & Gabriele Plickert, *The Paradox of Minority Attorney Satisfaction*, 60 INT’L REV. L. & ECON. 1, 9–10 (2019). See



that lawyers in prestigious positions were not as happy as those in public service positions, highlighting concepts like autonomy, feeling competent, and connecting to others as more important to happiness than external rewards like money.⁸ Does this mean that public defenders are immune from burning out? No. Research shows that while helping professionals might be engaged and even satisfied with their careers, they still burn out—the two can and do coexist.⁹

Understanding the complexities of public defenders' experiences, job satisfaction, motivations for the work, and strategies in confronting challenges is critical to ameliorating burnout and strengthening the right to counsel.¹⁰ Most research on lawyer satisfaction, stress, and burnout ignores the uniqueness of public defender stress and relies on quantitative empirical data, reducing nuanced experiences to numerical values and scales.¹¹ The current Study builds on the limited qualitative scholarly research¹² to explore the complexities and contradictions of public defenders' lived experiences, uncover how they define their positions, describe, confront, and navigate challenges, and identify the changes that would improve the profession and system. An open-ended survey that captured defenders' lived experiences was distributed by email to members of the National Association for Public Defense ("NAPD"),¹³ and sixty-six people responded (sixty-one attorneys and five non-attorneys). This Article focuses on the attorney responses (n=61). Although neither the recruitment email sent to the membership encouraging participation nor the open-ended survey used the words "stress" or "burnout," the participants responded and described their

Donna L. Hall, *Job Satisfaction Among Male and Female Public Defense Attorneys*, 18 JUST. SYS. J., 121, 130–32 (1995); Lawrence S. Krieger & Kennon M. Sheldon, *What Makes Lawyers Happy?: A Data-Driven Prescription to Redefine Professional Success*, 83 GEO. WASH. L. REV., 554, 614–15, 627 (2015).

⁸ See generally Krieger & Sheldon, *supra* note 6, at 618, 627 (identifying the importance of contrasting internal and external factors on happiness and observing that attorneys with large law firms were not as happy as public service attorneys); Kennon M. Sheldon & Lawrence S. Krieger, *Walking the Talk: Value Importance, Value Enactment, and Well-Being*, 38 MOTIVATION & EMOTION, 609, 615 (2014).

⁹ Ilona Salmons, BEST PRACTICES FOR MANAGING BURNOUT IN ATTORNEYS 1, 38 (2017) (Ph.D. dissertation, Pepperdine University) (on file with the Pepperdine Digital Commons). See generally Evangelia Demerouti, Karina Mostert, & Arnold B. Bakker, *Burnout and work engagement: A thorough investigation of the independency of both constructs*, 15 J. OCCUPATIONAL HEALTH PSYCH. 209, 218 (2010) ("Taken together, the results inhibit us from providing a simple answer to the question whether burnout and work engagement are bipolar constructs. Our findings indicate that we should answer this question for each dimension separately. While the identification dimensions of burnout (cynicism/disengagement) and work engagement (dedication) seem to be each other's opposite, the energy dimensions (exhaustion vs. vigor) seem to represent two separate but highly related constructs.")

¹⁰ NAT'L TASK FORCE ON LAWYER WELL-BEING, THE PATH TO LAWYER WELL-BEING: PRACTICAL RECOMMENDATIONS FOR POSITIVE CHANGE 1, 12–13, 31–32, (2017), <https://www.americanbar.org/content/dam/aba/images/abanews/ThePath-ToLawyerWellBeingReportRevFINAL.pdf>; James Colin, *Towards Trauma-Informed Legal Practice: A Review*, 27 PSYCHIATRY, PSYCH., & L. 275, 278–79 (2020); Bourg Carter, *supra* note 1, at 163; David R. Lynch, *The Nature of Occupational Stress Among Public Defenders*, 19 JUST. SYS. J. 17, 28–31 (1997).

¹¹ See, e.g., Joni Hersch & Erin E. Meyers, *Why are Seemingly Satisfied Female Lawyers Running for the Exits? Resolving the Paradox Using National Data*, 102 MARQ. L. REV. 915 (2019); Kathleen E. Hull, *The Paradox of the Contented Female Lawyer* 33(5) LAW AND SOC'Y REV. 687, 690 (1999); Milan Markovic, & Gabriele Plickert, *The Paradox of Minority Attorney Satisfaction*, 60 INT'L REV. L. & ECON. 1, 9–10 (2019); Marie-Jeanne Leonard, et al., *When the Lawyer Becomes Traumatized: A Scoping Review*, SAGE OPEN, July-Sept. 2020, at 1–10.

¹² Bačák, et al., "Fighting the Good Fight," *supra* note 6, at 939–61; Valerio Bačák, et al., *The Stress of Injustice: Public Defenders and the Frontline of American Inequality*, SOC. FORCES, Feb. 2024, at 2 [hereinafter Bačák, et al., *The Stress of Injustice*].

¹³ The NAPD was established in 2013, and it is a voluntary organization of public defense professionals with over 21,000 members. See NAT'L ASS'N FOR PUB. DEF., <https://www.publicdefenders.us/>.



careers with those words. Consistent with prior research,¹⁴ they reported daily struggles with personal, organizational, and structural stressors.

Employing the phronetic iterative¹⁵ data analysis approach, the public defender survey responses revealed rich connections between motivation, stress, and solutions. Themes were drawn from public defenders' descriptions of their motivations for the work and the personal, situational, and structural causes of their stress, which were related to their unique experiences as frontline workers suffering from the "stress of injustice,"¹⁶ compassion fatigue,¹⁷ and secondary trauma.¹⁸ Their motivation and challenges were associated with their recommended solutions for improving their work-life and the criminal legal system. This exploratory study begins to deepen our understanding of and potential redress for public defender burnout.¹⁹

Part I of this Article summarizes the previous literature identifying the causes of stress, unhappiness, and burnout among public defenders, the negative consequences of stress on lawyers, and the previous recommendations for preventing stress and burnout, which largely fail to address the structural causes of stress. Part II describes the current Study, methodology, and analytic approach to examining the open-ended survey responses. Part III discusses the thematic analysis findings. The links between public defenders' motivated work engagement, organizational and structural stressors, and work-life imbalance are uncovered. Further, this section explores what they propose for stress reduction, including support and flexibility (organizational), resource increases, workload reductions, and greater equity in the legal system (structural) as well as personal strategies. The Article

¹⁴ See, e.g., Baćak et al., "Fighting the Good Fight," *supra* note 6; Baćak et al., *The Stress of Injustice*, *supra* note 11.

¹⁵ SARAH J. TRACY, QUALITATIVE RESEARCH METHODS: COLLECTING EVIDENCE, CRAFTING ANALYSIS, COMMUNICATING IMPACT 8 (Wiley 2020) [hereinafter TRACY, QUALITATIVE RESEARCH METHODS] ("in which the researcher alternates between considering existing theories, research interests, or predefined questions/goals, on the one hand, with emerge qualitative data, on the other."); Sarah J. Tracy & Margaret M. Hinrichs, *Phronetic Iterative Data Analysis*, in THE INTERNATIONAL ENCYCLOPEDIA OF COMMUNICATION RESEARCH METHODS 1, 1 (2017) ("[T]he continual and intermittent attention paid to past literature for framing and shaping the emerging analysis.").

¹⁶ Baćak, et al., *The Stress of Injustice*, *supra* note 11, at 2.

¹⁷ CHARLES R. FIGLEY, COMPASSION FATIGUE: COPING WITH SECONDARY STRESS DISORDER IN THOSE WHO TREAT THE TRAUMATIZED 8–9 (1995) (coining and defining compassion fatigue as the stress that results from exposure to traumatized individuals and noted that compassion fatigue and secondary traumatic stress may overlap).

¹⁸ Elizabeth Dotson, et al., *An Exploratory Study of Occupational and Secondary Traumatic Stress Among a Mid-Sized Public Defender's Office*, 4 J. CRIM. JUST. & L. 22, 25–26, 32 (2020) (describing generally the definition of secondary traumatic stress as the cumulative physical, emotional, and psychological effects of constant exposure to others' traumatic experiences); Andrew Levin, et al., *Secondary Traumatic Stress in Attorneys and Their Administrative Support Staff Working With Trauma-Exposed Clients*, 199 J. NERVOUS & MENTAL DISEASE 946, 946 (2011); Dianne Molvig, *The Toll of Trauma*, 84 WIS. LAW. 4 (2011), <https://www.wisbar.org/NewsPublications/WisconsinLawyer/Pages/Article.aspx?Volume=84&Issue=12&ArticleID=2356>; Christina G.L. Nerstad, et al., *Can Engagement Go Awry and Lead to Burnout? The Motivating Role of the Perceived Motivational Climate*, 16 INT'L J. ENVIRON. RES. & PUB. HEALTH 1, 14 (2019); Joni Hersch & Erin E. Meyers, *Why Are Seemingly Satisfied Female Lawyers Running For The Exits? Resolving The Paradox Using National Data*, 102 MARQ. L. REV. 915, 930–38 (2019); Kathleen E. Hull, *The paradox of the contented female lawyer* 33(5) LAW AND SOC'Y REV. 687, 690 (1999); Milan Markovic, & Gabriele Plickert, *The Paradox of Minority Attorney Satisfaction*, 60 INT'L REV. L. & ECON. 1, 9–10(2019).

¹⁹ See, e.g., Susan Jackson, et al., *Correlates of Burnout Among Public Service Lawyers*, 8 J. OCCUPATIONAL BEHAV. 339, 340 (1987); Christine Maslach & Susan Jackson, *Lawyer Burnout*, 5 BARRISTER 8 (1978); Lee Norton, et al., *Burnout and Compassion Fatigue: What Lawyers Need to Know*, 84 UMKC L. REV. 987 (2015); Salmons, *supra* note 8 (dissertation); Abbe Smith, *Too Much Heart and Not Enough Heat: The Short Life and Fractured Ego of the Empathic, Heroic Public Defender*, 37 U.C. DAVIS L. REV. 1203 (2004).



concludes by connecting the findings to the larger body of research on occupational stressors, identifying directions for future research, and describing practitioner-centered recommendations.

I. REVIEW OF THE LITERATURE

The literature below has described the general causes of stress, its consequences, and some proposed solutions for reducing stress among lawyers. Still, few focus on the unique causes of stress among those in public defense, the consequences for the defenders and the broader constitutional guarantee of effective assistance of counsel, and how previously proposed recommendations are ineffective in ameliorating the stress of frontline public defenders. Occupational stress is caused by a variety of factors, and many contributors are endemic to criminal defense lawyering.

A. *What Causes Stress, Unhappiness, and Burnout in Public Defenders?*

The World Health Organization recently identified burnout as an occupational phenomenon “resulting from chronic workplace stress that has not been successfully managed.”²⁰ The three dimensions of burnout are: “feelings of energy depletion or exhaustion;” “increased mental distance from one’s job, or feelings of negativism or cynicism related to one’s job;” and “reduced professional efficacy.”²¹ Attorneys have high workplace stress, substance abuse, and burnout rates.²² One study identified that lawyers’ pessimistic approach (i.e., always looking for problems and issues), the profession’s high pressure and limited autonomy, and the focus on winning at all costs interact to cause stress and unhappiness among lawyers:

(1) Lawyers are selected for their pessimism (or “prudence”), and this generalizes to the rest of their lives; (2) Young associates hold jobs that are characterized by high pressure and low decision latitude, exactly the conditions that promote poor health and poor morale; and (3) American law is to some extent a zero-sum game, and negative emotions flow from zero-sum games.²³

Another study explained that high rates of stress and burnout among lawyers were rooted in a combination of individual, occupational, societal, and technological factors.²⁴ In a study of family law practitioners, forensic psychologist Sherrie Bourg Carter specifically identified that the high need for achievement, perfectionism, and the failure to set

²⁰ *BURN-OUT AN “OCCUPATIONAL PHENOMENON”*: INTERNATIONAL CLASSIFICATION OF DISEASES, WHO (May 28, 2019), <https://www.who.int/news/item/28-05-2019-burn-out-an-occupational-phenomenon-international-classification-of-diseases>.

²¹ *Id.* See also CHRISTINA MASLACH ET AL., MASLACH BURNOUT INVENTORY 191–218 (3d ed. 1996).

²² Salmons, *supra* note 8 (dissertation at 7-8).

²³ Martin E. Seligman, et al., *Why Lawyers are Unhappy*, 23 CARDOZO L. REV. 33, 34 (2001).

²⁴ Bourg Carter, *supra* note 1, at 161–63.



appropriate boundaries, particularly with clients, related to lawyer stress.²⁵ Difficult legal practice areas—like family and criminal law—involve traumatized clients and produce compassion fatigue and secondary traumatic stress in lawyers, characterized by depression and burnout.²⁶ Additionally, cynicism, working long hours, and the adversarial nature of the legal practice contribute to stress, unhappiness, and burnout.²⁷ The high-demand and low-control work environments foster stress and burnout.²⁸ Technological advances blur the boundaries of home and work, and working outside of “normal” hours adds to the pressure and stress and increases burnout.²⁹

According to scholar Ilona Salmons, “[b]urnout is often the result of a complex interaction between environmental and personal factors.”³⁰ The factors linked to burnout are particularly salient to the career of public defense, including high-demanding work environments and the lack of autonomy, rewards, and recognition.³¹ Lawyers, particularly public defenders, confront disparaging societal views, negative jokes, and low public opinion,³² or more succinctly, as characterized by a former public defender, the feeling that everyone is against us.³³ Public defenders are hampered by high caseloads and low salaries, exposure to structural stresses of injustice,³⁴ compassion fatigue,³⁵ secondary trauma from interacting with trauma-exposed clients,³⁶ hostility from the public, and distrust from clients.³⁷ Structural impediments like the lack of autonomy over court appearances and representing traumatized clients only serve to compound the restrictive and stressful environments.³⁸

²⁵ *Id.*

²⁶ Levin, et al., *supra* note 17, at 953.

²⁷ Martin E. Seligman, et al., *Why Lawyers are Unhappy*, 23 *CARDOZO L. REV.* 33, 36–50 (2001); Bourq Carter, *supra* note 1, at 163–64.

²⁸ See Martin E. Seligman, et al., *Why Lawyers are Unhappy*, 23 *CARDOZO L. REV.* 33, 41–43 (2001).

²⁹ See Bourq Carter, *supra* note 1, at 162–63.

³⁰ Salmons, *supra* note 8 (dissertation at 6). See also Christina Maslach, et al., *Job Burnout*, 52 *ANN. REV. PSYCH.* 397, 402–11 (2001) [hereinafter Maslach, et al., *Job Burnout*]; Christina Maslach & Susan J. Jackson, *The Measurement of Experienced Burnout*, 2 *J. OCCUPATIONAL BEHAV.* 99, 102–03 (1981).

³¹ Maslach, et al., *Job Burnout*, *supra* note 29, at 407; Christina Maslach & Michael P. Leiter, *Early Predictors of Job Burnout and Engagement*, 93 *J. APPLIED PSYCH.* 498, 500–01 (2008) [hereinafter Maslach & Leiter, *Early Predictors*]. See generally Wilmar Schaufeli & Bram P. Buunk, *Burnout: An Overview of 25 Years of Research and Theorizing*, in *THE HANDBOOK OF WORK AND HEALTH PSYCHOLOGY* at 383–425 (2d ed. 2003).

³² Bourq Carter, *supra* note 1, at 162.

³³ ALLEN GOODMAN, *EVERYONE AGAINST US: PUBLIC DEFENDERS AND THE MAKING OF AMERICAN JUSTICE* (2023).

³⁴ See also Lynch, *supra* note 9, at 29–30.

³⁵ Lee Norton, Jennifer Johnson, & George Woods, *Burnout and Compassion Fatigue: What Lawyers Need to Know*, 84 *UMKC L. REV.* 987, 992–94 (2015).

³⁶ Colin, *supra* note 9, at 278; Dotson, et al., *supra* note 17, at 25–26, 30; Stine Iverson & Noelle Robertson, *Prevalence and Predictors of Secondary Trauma in the Legal Profession: A Systematic Review*, 28 *PSYCHIATRY, PSYCH. & L.* 802, 804, 814–17 (2021); Leonard, et al., *supra* note 10, at 5–7; Levin, et al., *supra* note 17, at 953; Marjorie Silver, et al., *Stress, Burnout, Vicarious Trauma, and Other Emotional Realities in the Lawyer/Client Relationship*, 19 *TOURO L. REV.* 847, 857–61 (2015).

³⁷ MATTHEW CLAIR, *PRIVILEGE AND PUNISHMENT: HOW RACE AND CLASS MATTER IN CRIMINAL COURT* 3, 14–15 (2020); Abbe Smith & William Montross, *The Calling of Criminal Defense*, 50 *MERCER L. REV.* 443, 451–52 (1999).

³⁸ Baćak, et al., *The Stress of Injustice*, *supra* note 11, at 13.



Some burnout factors are less common among public defenders.³⁹ Public defenders report feeling connected with their colleagues, expressing a sense of community and work that aligns with their values.⁴⁰ Public defenders continue their work despite the challenges, but a downside to their commitment and high engagement is that they might suffer from resource depletion.⁴¹ Although some research scholars advance the idea that work engagement might prevent burnout,⁴² others suggest that intrinsic motivations and work engagement increase resource depletion, which fosters compassion fatigue and vicarious or secondary traumatic stress.⁴³ People who suffer from compassion fatigue do not detach and may feel even more drawn to helping clients, exacerbating the stress of injustice inflicted by overcriminalization and punishment, mass incarceration, disinvestment in indigent defense, and criminalization of mental illness.⁴⁴ Public defender work is already client-centered,⁴⁵ and with the trend toward holistic defense, a representation model involving attorneys in clients' extra-legal problems,⁴⁶ will likely come a deepened engagement in their clients' lives, coupled with worse compassion fatigue, secondary traumatic distress, and burnout.⁴⁷ Scholarly research shows that those in helping professions who are highly engaged with their work burn out.⁴⁸ It is critical to explore solutions that alleviate stress and reduce burnout while promoting client-centered and work-engaged approaches to representing indigent defendants.

³⁹ Michael P. Leiter & Christina Maslach, *Areas of Worklife: A Structured Approach to Organizational Predictors of Job Burnout*, 3 *Emotion & Physiological Processes & Positive Intervention Strategies* 91, 95-100 (2004); Santiago Gascon, et al., *Value Conflict, Lack of Rewards, and Sense of Community as Psychosocial Risk Factors of Burnout in Communication Professionals (Press, Radio, and Television)*, 18 *INT'L J. ENVIRON. RES. & PUB. HEALTH* 365 (2021).

⁴⁰ Baćak, et al., "*Fighting the Good Fight*," *supra* note 6, at 939–61 (stating in the article's abstract that they are motivated by "interacting with clients, defending the Constitution, fighting social inequality, pursuing personal values, [and] appreciating camaraderie with colleagues.").

⁴¹ See generally, Nerstad, et al., *supra* note 17, at 1.

⁴² Christina Maslach, *Burnout and Engagement in the Workplace: New Perspectives*, 13 *THE EUR. HEALTH PSYCH.* 44, 44 (2011) [hereinafter Maslach, *Burnout and Engagement in the Workplace*]; WILMAR B. SCHAUFELI & ARNOLD B. BAKKER, *WORK ENGAGEMENT: A HANDBOOK OF ESSENTIAL THEORY AND RESEARCH* 162 (A.B. Bakker & M.P. Leiter, eds. 2010) (defining work engagement as "a positive and fulfilling state of mind related to work," including vigor/high energy, dedication/feelings of pride or meaning, and absorption/entering flow-states at work).

⁴³ Nerstad, et al., *supra* note 17, at 1, 14.

⁴⁴ J. Eric Gentry, *Compassion Fatigue: A Crucible of Transformation*, 1 *J. TRAUMA PRAC.* 37, 39–43 (2002); Baćak, et al., *The Stress of Injustice*, *supra* note 11, at 1.

⁴⁵ Heather Pruss, et al., "*Listen, Hear My Side, Back Me Up*": *What Clients Want from Public Defenders*, 43 *JUST. SYS. J.* 6, 7 (2022) ("Client-centered representation is a strategy that requires attorneys to focus their ideological and practical attention on the full spectrum of life concerns for a client, to understand and center the client's view and perspective of the case, and to foster client autonomy as the case moves forward.") (internal citations omitted).

⁴⁶ Heather Harris, *Building Holistic Defense: The Design and Evaluation of a Social Work Centric Model of Public Defense*, 31 *CRIM. J. POL'Y REV.* 800, 800 (2020).

⁴⁷ Baćak, et al., *The Stress of Injustice*, *supra* note 11, at 2; PAULA DAVIS, *BEATING BURNOUT AT WORK: WHY TEAMS HOLD THE SECRET TO WELL-BEING AND RESILIENCE* 20 (2021); Iverson & Robertson, *supra* note 35, at 819.

⁴⁸ Salmons, *supra* note 8, at 38; Evangelia Demerouti, et al., *Burnout and Work Engagement: A Thorough Investigation of the Independence of Both Constructs*, 15 *J. OCCUPATIONAL HEALTH PSYCH.* 209, 218 (2010); Nerstad, et al., *supra* note 17 at 14.



B. *Consequences of Stress and Burnout in the Legal Profession*

High stress leads to substance abuse, mental health issues, competency concerns, and low job satisfaction.⁴⁹ In a study of 13,000 practicing attorneys, between twenty-one and thirty-six percent reported having a drinking problem, and between twenty and thirty percent struggled with depression, anxiety, and stress.⁵⁰ They are overworked, stressed, and lonely, which increases suicidality.⁵¹ Lawyers suffer from social alienation, work addiction, sleep deprivation, work-life conflicts, and negative public perceptions.⁵² Stress and burnout impact the effectiveness of counsel and risk undermining the legitimacy of the criminal legal system.⁵³ Lawyer well-being is inextricably linked to the success of legal organizations, including public defender offices.⁵⁴ Struggling lawyers engage in questionable ethical decisions; they experience “diminished memory, attention, and problem-solving.”⁵⁵ One study showed that between forty and seventy percent of disciplinary proceedings and malpractice claims were linked to lawyers with substance abuse, depression, or both.⁵⁶ Finally, as lawyers are increasingly unwilling to work in high-stress and toxic environments that negatively affect their physical and mental health, especially among women and lawyers in lower-paid public criminal law fields,⁵⁷ their departure increases the workloads of those left behind, further increasing stress and the risk of burnout.⁵⁸

⁴⁹ See Patrick R. Krill, et al., *The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys*, 10 ADDICTION MED. 46, 48–52 (2016); Anita Sharma, et al., *Stress and Burnout as Predictors of Job Satisfaction Amongst Lawyers*, 14 EUR. J. SOC. SCI. 348, 352–56 (2010).

⁵⁰ See Krill, et al., *supra* note 48, at 48–52.

⁵¹ Patrick R. Krill, et al., *Stressed, Lonely, and Overcommitted: Predictors of Lawyer Suicide Risk*, 11 HEALTHCARE 536, 536 (2023).

⁵² See NAT’L TASK FORCE ON LAW. WELL-BEING, THE PATH TO LAWYER WELL-BEING: PRACTICAL RECOMMENDATIONS FOR POSITIVE CHANGE 7, 8 (Aug. 14, 2017), <https://www.americanbar.org/content/dam/aba/images/abanews/ThePathToLawyerWellBeingReportRevFINAL.pdf>.

⁵³ See Cheryl A. Krause & Jane Chong, *Lawyer Wellbeing as a Crisis of the Profession*, 71 S.C. L. REV. 203, 204–05, 213 (2019).

⁵⁴ *Id.* at 8 (citing Corey L.M. Keyes & Joseph G. Grzywacz, *Health as a Complete State: The Added Value in Work Performance and Healthcare Costs*, 47 J. OCCUPATIONAL & ENV’T MED. 523 (2005)).

⁵⁵ *Id.* at 9.

⁵⁶ *Id.* at 8 (citing Douglas B. Marlowe, *Alcoholism, Symptoms, Causes, & Treatments, in Stress Management for Lawyers* 104–30 (Amiram Elwork ed., 2d ed. 1997) (cited in MARJORIE A. SILVER, *SUBSTANCE ABUSE, STRESS, MENTAL HEALTH AND THE LEGAL PROFESSION* (2004), available at <http://www.nylat.org/documents/CourseinaBox.pdf>)).

⁵⁷ E.g., Maryam Ahranjani, *Toughen Up, Buttercup versus #TimesUp: Initial Findings of the ABA Women in Criminal Justice Task Force*, 25 J. BERKELEY J. CRIM. L. 99 (2020) [hereinafter Ahranjani, *Toughen Up, Buttercup*]; Joni Hersch, & Erin E. Meyers, *Why are Seemingly Satisfied Female Lawyers Running for the Exits? Resolving the Paradox Using National Data*, 102 MARQ. L. REV. 915 (2019); Lee Norton, Jennifer Johnson, & George Woods, *Burnout and Compassion Fatigue: What Lawyers Need to Know*, 84 UMKC L. REV. 987 (2015). Former lawyers create careers to help other lawyers avoid burnout, PAULA DAVIS, *BEATING BURNOUT AT WORK: WHY TEAMS HOLD THE SECRET TO WELL-BEING AND RESILIENCE* (2021), or they provide support to help them find a non-legal career. See, e.g., Sarah Cottrell, *The Simple 5-Step Framework to Identify an Alternative Career (That You Actually Like!)* FORMER LAW., https://formerlawyer.com/masterclass/?_gl=1*wjsjcs*_gcl_au*MTC5NTY1MTgxNC4xNjg2Njg0ODY0.

⁵⁸ Nia Prater, *106 Cases, Three Jobs, One Lawyer: The City’s Public Defenders are Struggling*, N.Y. MAG. (Mar. 7, 2023), <https://nymag.com/intelligencer/2023/03/nyc-public-defenders-face-a-funding-crisis.html>; *Nationwide Scarcity of Public Defenders Worsened by Pandemic*, THE CRIME REP. (June 21, 2022), <https://thecrimereport.org/2022/06/21/nationwide-scarcity-of-public-defenders-worsened-by-pandemic/>; Kyle Stucker, *‘Calling This a Crisis is Not an Understatement’: Public Defenders Face Challenges*, THE PROVIDENCE J. (Sept. 29, 2021), available



C. *Proposals to Prevent Burnout*

Lawyers experience stress, but not all experience burnout.⁵⁹ Understanding a lawyer's personal, situational, and structural stressors and connecting them with resources and practices to prevent or reduce burnout is essential.⁶⁰ Hearing from public defenders working in the courts, interacting with clients, and confronting the stresses of injustice on their suggestions is vital for successful strategies that decrease stress, reduce burnout, and avoid the negative consequences of the phenomenon.⁶¹ There is surprisingly little research on how lawyers prevent burnout,⁶² and no research on how public defenders navigate their unique stressors.

Some early and general recommendations on how to prevent burnout encouraged personal responses with simplified approaches that concentrated on burnout symptoms, self-help tips, and suggestions to engage in activities like meditation and yoga.⁶³ For example, the American Bar Association ("ABA") advanced self-care, wellness, and mindfulness strategies to address lawyer attrition, stress, and emotional burnout.⁶⁴ Little research has explored the "best practices for navigating the challenges within the legal field."⁶⁵ Lawyers practicing in large law firms identified several different strategies, including personal strategies for leading a balanced life outside of work by drawing boundaries around work, developing hobbies, traveling, and becoming involved in their communities.⁶⁶ Others reported stepping away from the law or adopting stress-management practices, including exercise and relying on supportive family members.⁶⁷ These coping strategies are helpful, but over time, it became clear that burnout is a workplace issue, not an individual one, and that it is not enough to suggest personal strategies without addressing toxic or broken organizations or structural causes of burnout.⁶⁸

An organizational approach treats burnout as a workplace issue, focusing on leadership responses, addressing autonomy, decreasing workloads, providing support, and developing feelings of belonging, relationships, connections, and resilience.⁶⁹ Organizational leaders can reduce unfairness and encourage meaningful work to foster

<https://www.providencejournal.com/story/news/2021/09/29/new-england-public-defenders-worried-clients-not-getting-effective-representation-covid-19-backlog/5842430001/>; Annmarie Timmins, *'We are Just Treading Water': State Still Struggling to Ensure Poor People Have an Attorney*, N.H. BULL. (July 20, 2022) <https://newhampshire-bulletin.com/2022/07/20/we-are-just-treading-water-state-still-struggling-to-ensure-poor-people-have-an-attorney/>.

⁵⁹ Salmons, *supra* note 8 (dissertation at 6).

⁶⁰ See discussion *supra* Part 1(b) (summarizing the negative consequences of professional stress and burnout).

⁶¹ See Bourq Carter, *supra* note 1, at 164 (discussing the relevant preventive strategies for family lawyers).

⁶² Salmons, *supra* note 8 (dissertation at 70); Paula Davis, BEATING BURNOUT AT WORK: WHY TEAMS HOLD THE SECRET TO WELL-BEING AND RESILIENCE (2021).

⁶³ Paula Davis, BEATING BURNOUT AT WORK: WHY TEAMS HOLD THE SECRET TO WELL-BEING AND RESILIENCE (2021), at xiii; Christina Maslach & Michel P. Leiter, *Understanding the Burnout Experience: Recent Research and Its Implications for Psychiatry*, 15 WORLD PSYCHIATRY 103, 109 (2016).

⁶⁴ E.g., NAT'L TASK FORCE ON LAW. WELL-BEING, *supra* note 51.

⁶⁵ Salmons, *supra* note 8 (dissertation at 70).

⁶⁶ *Id.* at 113–14.

⁶⁷ *Id.*

⁶⁸ See generally, Paula Davis, BEATING BURNOUT AT WORK: WHY TEAMS HOLD THE SECRET TO WELL-BEING AND RESILIENCE (2021) (taking a holistic approach to preventing burnout by fostering belonging, psychological safety, and motivation among team members).

⁶⁹ *Id.* at 91-92.



motivation and prevent or reduce stress and burnout.⁷⁰ Dimensions of work engagement were proposed as the positive antipode to burnout symptoms.⁷¹ Some scholarly work in helping professions (e.g., dentists, nurses, and teachers) posit that increasing “a positive, fulfilling, work-related state of mind”⁷² reduces burnout.⁷³

A more complex explanation asserts that burnout and work engagement are related but separate and distinct concepts: “burnout seems to be caused by high job demands and to a lesser extent low job resources, work engagement seems to be caused by job resources.”⁷⁴ Job resources are work aspects that motivate achieving goals, reduce job demands, and stimulate learning and growth.⁷⁵ In the study of lawyers in large firms, their practical notions about avoiding burnout involved firm-provided resources, including flexibility in balancing the demands of work and life.⁷⁶ Others reported that their employers reduced stress by building collegial environments,⁷⁷ providing leadership support, and allowing autonomy and flexibility.⁷⁸

Personal resources are also related to burnout and engagement, influencing health and motivational outcomes, respectively.⁷⁹ Personal resources are instrumental in dealing with stress related to colleagues, clients, and opposing counsels. The private lawyers reported that they navigated these relational stressors by employing various communication strategies, including simply not engaging “when another person was intent on fighting, they refused to react or worsen the issue,” and anticipating stressful situations.⁸⁰ One of the lawyers interviewed identified the importance of not ignoring gut feelings: “[w]hen I sense that there is something that’s not going well, or that the client is uncomfortable with something, I strategize in my head how to take away that unease. I don’t ignore those signs.”⁸¹ Negative situations were alleviated by relying on lawyers’ soft skills—communicating in

⁷⁰ *Id.* at 54-59.

⁷¹ Maslach, *Burnout and Engagement in the Workplace*, *supra* note 41, at 45-46; Maslach & Leiter, *Early Predictors*, *supra* note 30, at 500-01; Wilmar B. Schaufeli, et al., *The Measurement of Work Engagement With a Short Questionnaire: A Cross-National Study*, 66 *EDUC. & PSYCH. MEAS.* 701, 702 (2006) [hereinafter Schaufeli et al., *The Measurement of Work Engagement With a Short Questionnaire*]; Wilmar B. Schaufeli, et al., *The Measurement of Engagement and Burnout: A Two Sample Confirmatory Factor Analytic Approach*, 3 *J. HAPPINESS STUD.* 71, 86-87 (2002).

⁷² Schaufeli, et al., *The Measurement of Work Engagement With a Short Questionnaire*, *supra* note 71, at 702.

⁷³ Hans Te Brake, et al., *Professional Burnout and Work Engagement Among Dentists*, 115 *EUR. J. ORAL SCIS.* 180, 183 (2007); Yumiko Saito, et al., *Work Values and Their Association with Burnout/Work Engagement Among Nurses in Long-Term Care Hospitals*, 26 *J. NURSING MGMT.* 393, 393, 400 (2017); Xuan Zhao, et al., *Teacher Career Calling Reduces Burnout: The Mediation Effects of Work Engagement and Psychological Capital*, 13 *FRONTIERS PSYCH.*, no. 13, 2022, at 1, 5.

⁷⁴ Arnold B. Bakker, et al., *Burnout and Work Engagement: The JD-R Approach*, 1 *ANN. REV. ORGANIZATIONAL PSYCH. & ORGANIZATIONAL BEHAV.* 389, 405 (2014) [hereinafter Bakker, et al., *The JD-R Approach*].

⁷⁵ Job demands are defined as aspects of a job that require sustained effort that come with physical and psychological costs. See Arnold B. Bakker, et al., *Job-Demands-Resources Theory: Ten Years Later*, 10 *ANN. REV. ORGANIZATIONAL PSYCH. & ORGANIZATIONAL BEHAV.* 25, 32 (2023) [hereinafter Bakker, et al., *JD-R Theory: Ten Years Later*].

⁷⁶ Salmons, *supra* note 8 (dissertation at 120).

⁷⁷ *Id.* at 107 (defining a collegial environment as one where “employees felt like they were part of a team, had the support of their colleagues, were encouraged to collaborate with those around them, and had close and personal relationships with the people at their firm.”).

⁷⁸ *Id.* at 143.

⁷⁹ Bakker, et al., *JD-R Theory: Ten Years Later*, *supra* note 74.

⁸⁰ Salmons, *supra* note 8 (dissertation at 116, 147-48).

⁸¹ *Id.*



person rather than email, relying on others in helping to resolve interpersonal difficulties, and approaching conflict with empathy and detachment.⁸²

The barriers to implementing organizational and personal strategies range from interpersonal struggles and confrontations with difficult people, internal challenges related to discipline, failures in maintaining boundaries, and time constraints due to unpredictable schedules and demanding work.⁸³ Additional obstacles concern micromanagement and, ironically, mandated stress-reduction activities.⁸⁴ Lawyers identified flexibility and autonomy as the most effective policies in reducing personal and organizational stress.⁸⁵

Interventions for structural and systemic (rather than personal, organizational or managerial) causes of stress and some inherent aspects of the legal practice are underexplored, with few interventions implemented to address them.⁸⁶ No prior studies have explored how lawyers, like public defenders, deal with broader structural challenges, who deal with the stresses of injustice arising from inequalities in the criminal legal system, mass incarceration, disinvestment in indigent defense, and criminalization of mental illness.⁸⁷ The current Study builds on prior research by examining how public defenders describe the motivations for their work and the causes of their stress, and connecting those motivators and stressors to strategies for navigating stress and recommended solutions for reducing organizational and systemic challenges of working as public defenders.

II. Study Design and Methodology

The NAPD⁸⁸ agreed to send a recruitment email to its membership asking them to voluntarily participate in a study to understand the lived experiences of those working in public criminal defense, particularly to understand (1) what motivates people to enter, stay or consider leaving the profession, (2) how barriers, obstacles, and the complexities of everyday life are navigated and negotiated, and (3) what might improve their life's work. Sixty-six criminal public defense professionals (61 attorneys and 5 non-attorneys) responded. The focus of this study is on the attorneys' responses. The open-ended questions were sent by an electronic survey,⁸⁹ allowing respondents to compose responses to the questions in their own words. Once completed and submitted, the confidential survey responses were automatically returned directly to the author.⁹⁰ Specifically, respondents were asked ten questions:

⁸² *Id.* at 117–18.

⁸³ *Id.* at 123–24.

⁸⁴ *Id.* at 130.

⁸⁵ *Id.* at 143.

⁸⁶ See discussions of non-lawyer intervention studies: Bakker, et al., *supra* note 74, at 45-46; Angela L. Rollins, et al., *Organizational Conditions that Influence Work Engagement and Burnout: A Qualitative Study of Mental Health Workers*, 44 *PSYCHIATRIC REHAB. J.* 229, 230 (2021) (reporting on findings from a study among mental health workers that identified system interventions).

⁸⁷ Bačak, et al., *The Stress of Injustice*, *supra* note 11, at 1, 2–4, 6–7.

⁸⁸ See *supra* note 12. With over 21,000 members of the NAPD, the response rate was low.

⁸⁹ SURVEYMONKEY, <https://www.surveymonkey.com/> (last visited Feb. 18, 2023).

⁹⁰ The respondents voluntarily provided their names and contact information for follow-up questions with the understanding that their identities would remain confidential in all future publications. The follow-up interviews were not conducted because the more comprehensive interview project was not funded.



1. How would you describe your role in public criminal defense (your title and its importance in providing quality defense)?
2. What drew you to enter a career in public criminal defense?
3. What motivates you to stay or consider leaving a career in public criminal defense?
4. How would you describe a typical day in your career or personal life?
5. What, if any, barriers or obstacles have you confronted in your career, and describe how you navigate them?
6. What would improve your experience in the profession of public criminal defense?
7. What is your age, race, ethnicity, and gender?
8. How long have you been in a public criminal defense career?
9. Describe your location (part of the country/rural or urban, etc.) and the type of office that you work (e.g., state, federal, contract, etc.).
10. Please include any additional information that would help us understand your everyday life and how you negotiate your career and personal life.⁹¹

Neither the recruitment message nor the survey questions referred to stress, unhappiness or burnout. Without any prompting, the respondents described their professional lives using words like “stress” or described circumstances that lead to burnout in their everyday work lives; they described their careers as “challenging,” “helping,” “overwhelming,” and “traumatizing,” while at the same time, “interesting,” “meaningful,” and “significant.” The qualitative framework of this research study allowed those in the public defense field to describe their work, the challenges, and the obstacles, but also their engagement, motivation, and the purpose of their work. Importantly, they were asked to describe obstacles and barriers to success (if any, so as not to presume that barriers existed) and how they navigated them. The respondents identified personal, organizational, and structural challenges to their success. They often described personal strategies for dealing with stress but recommended further organizational and structural improvements, which are largely beyond their individual control.

A. Sample Description

The convenience sample comprised individuals who responded to the recruitment message and submitted responses to the survey questions. The sample is not representative, and the findings cannot be generalized to the broader population of lawyers or public defenders. The exploratory survey does, however, provide insight into the lived experience of public defenders. Their responses demonstrate that public defenders experience unique

⁹¹ Pdf of Survey questions on file with the Author.



stressors, some related to their intrinsic motivations for the work. Their recommendations to improve their careers are distinctive, focusing on fixing the organizational and structural impediments to justice and their personal careers. The participants are described in Table One below. The participants were asked for their age, ethnicity, and gender in open-ended questions, allowing for more nuanced descriptions of their identities. The findings below identify the participants by a case number and how they described themselves, but they are not identified by name or location to protect the confidentiality of their responses. Most respondents were attorneys (n=61), female (n=35), white (n=55), and long-time practitioners (n=49), with a mix of experiences in urban and rural offices. The attorney types varied widely, from elected officials to private practitioners taking on contract cases. For this analysis, only the responses from the attorney respondents were examined.

Table 1: Sample Demographic and Location Characteristics

Attorney	Yes (n=61) No (n=5)
Gender (n=61)	Female (n=35) Male (n=30)
Age	Over 40 (n=52) Under 40 (n=9)
Race ⁹²	Black (n=3) Hispanic (n=6) Other (n=3) White (n=55)
Years of Practice	Over 10 (n=49) Under 10 (n=16)
Office Location/Practice Location	Both Urban/Rural (n=5) Rural/Suburban (n=24) Urban (n=31)

⁹² The participants described themselves based on self-described gender and race/ethnicity. These were collapsed, here, for purposes of describing the sample. In the report of the findings, the attributed quotes reference the designated case number, and how each participant described themselves.



B. *Analytic Process*

The initial open-ended survey responses were imported into ATLAS.ti (version 23)⁹³ for review and coding.⁹⁴ The author read each survey response several times without coding,⁹⁵ and during initial readings kept an open mind, recorded hunches,⁹⁶ and employed an abductive and eclectic approach for first-cycle coding⁹⁷ on the first 30 surveys. Emergent, broad, and salient descriptions and relationships were identified, including obstacles to success, methods of navigating challenges, and distinctive ideas for resolving structural and system struggles. The early coding reflected what was present in the data, including the “basics of who, what, where, when”⁹⁸ resulting in six categories (and 34 sub-codes). The most salient of the categories being linked to *causes of stress* (disrespect, emotional trauma, housework, multi-tasking, work-life balance, and workload), *challenges* (inadequate funding, discrimination, difficult clients), *reasons for leaving* (bureaucracy, compensation, injustice, disrespect, stress, workload), *reasons for staying* (comradery, challenge, compensation/benefits, societal contribution, loving the work, helping, respect, rewarding), *strategies for navigating challenges* (advocacy, commiserate, flexibility, mental health psychological distancing, and working harder), and recommended *improvements* (help for clients, fairness of police, prosecutors, and judges, money/benefits, respect, sabbatical/break, increased support/reduced workload). The respondents’ responses were examined for meaning around what they described and surprising or unexpected responses.⁹⁹ The remainder of the surveys were coded using established preliminary, first-cycle codes while adding codes broadly linked to the survey responses as they arose.

i. *Use of AI as a Collaborator*

ATLAS.ti introduced artificial intelligence (AI) options for coding.¹⁰⁰ As the author was the sole coder of the data, the AI function was employed as an AI collaborator to establish some coding reliability. The AI option was selected, and ATLAS.ti coded the corpus of documents and participant responses. AI did not replace my coding or sub-coding, but instead added codes, allowing me to compare and re-evaluate my coded observations with the computer-created codes.¹⁰¹ AI created 527 codes but only ten categories. The AI-generated categories were labeled: career development, client-oriented approach, covid-19

⁹³ ATLAS.ti, <https://atlasti.com/> (last visited Feb. 18, 2023); SUSANNE FRIESE, QUALITATIVE DATA ANALYSIS WITH ATLAS.TI (2d ed. 2019); JOHNNY SALDAÑA, THE CODING MANUAL FOR QUALITATIVE RESEARCHERS (3d ed. 2016).

⁹⁴ Susanne Friese, QUALITATIVE DATA ANALYSIS WITH ATLAS.TI, 103–53 (2nd ed. 2019).

⁹⁵ Tracy & Hinrichs, *supra* note 14, at 4 (“[P]hronetic iterative qualitative data analysis calls for researchers to submerge themselves in the entire breadth of the data through reading and rereading it, listening to it, and thinking about it.”). See also TRACY, QUALITATIVE RESEARCH METHODS, *SUPRA* NOTE 14, at 213.

⁹⁶ Tracy & Hinrichs, *supra* note 14, at 4.

⁹⁷ Johnny Saldaña, THE CODING MANUAL FOR QUALITATIVE RESEARCHERS 71 (2016).

⁹⁸ Tracy & Hinrichs, *supra* note 14, at 4; TRACY, QUALITATIVE RESEARCH METHODS, *SUPRA* NOTE 14, at 220; SARAH J. TRACY, A PHRONETIC ITERATIVE APPROACH TO DATA ANALYSIS IN QUALITATIVE RESEARCH, 19 J. QUAL. RES. 61, 66 (2018) [hereinafter TRACY, A PHRONETIC ITERATIVE APPROACH].

⁹⁹ TRACY, QUALITATIVE RESEARCH METHODS, *SUPRA* NOTE 14, at 215.

¹⁰⁰ Atlas.ti, <https://atlasti.com/>

¹⁰¹ <https://atlasti.com/atlas-ti-ai-lab-accelerating-innovation-for-data-analysis>



impact, diversity, location, personal resource and support, social justice, values, work motivation, and workplace challenges. A cursory review of the AI coding demonstrated overlap among the many sub-codes and categorical coding that complemented my manual coding, particularly on the motivations and challenges of public defender work. Prior scholarly works on lawyer burnout and solutions were consulted before moving to second-cycle coding, which included deeper comparisons of both my first cycle and AI-generated codes.

Scholarly research on lawyer burnout and strategies to avoid stress offered insights for critically examining, organizing, synthesizing, categorizing, and refining during second-cycle coding.¹⁰² The “most significant, interesting, or frequent codes [were assembled] into a working skeleton”¹⁰³ outline and included “interpretation and identifying patterns.”¹⁰⁴ Constant comparisons with the data and the prior literature were conducted to update analytic notations and capture, synthesize, and analyze the thoughts and ideas that emerged during the meaning-making process, including updating or creating new codes, exploring deviant cases, and testing and improving theme development and understanding.¹⁰⁵

ii. *Examining, Comparing, and Merging the AI-Coding and First-Cycle Codes*

Each AI-generated category and code was examined and compared to the original coding during the analytic process. During this process, the *career-development category* was deleted because each of the codes and sub-codes (often capturing only a single example) were duplicated by other codes (mine and AI) that better captured the respondents’ meaning. The *client-centered category* sub-codes were merged into a single category for the client-centered approach. Only a few individuals mentioned the impact of *Covid* (n=4); the sub-coding was merged into a single sub-code for the Covid-19 impact. Like the community development AI code, the *diversity code* had many sub-codes, often reflecting only one example for each sub-code. Also, very few represented diversities, but rather a wide range of challenges confronting public defenders. For example, ageism, criticism, and discrimination were included as sub-codes. The *diversity code* was changed to *challenges*. Each sub-code was reviewed and compared to my original coding, determining whether an original or updated code best described the excerpt and either deleted the AI sub-code or merged it into another. For example, ageism, gender discrimination, gender bias, gender inequality, racism, prejudice, sexism, and discrimination were combined into a single sub-code (discrimination). The hundreds of sub-categories were reduced to thirteen sub-codes under the *challenge category*¹⁰⁶ describing structural discrimination, including inequities between the public defender and prosecutor compensation and benefits (coded as public

¹⁰² Tracy & Hinrichs, *supra* note 14, at 6; TRACY, A PHONETIC ITERATIVE APPROACH, *supra* note 98, at 66; TRACY, QUALITATIVE RESEARCH METHODS, *SUPRA* NOTE 14, at 225.

¹⁰³ Sarah J. Tracy, QUALITATIVE RESEARCH METHODS: COLLECTING EVIDENCE, CRAFTING ANALYSIS, COMMUNICATING IMPACT 214 (Wiley2020).

¹⁰⁴ TRACY, QUALITATIVE RESEARCH METHODS, *SUPRA* NOTE 14, at 194.

¹⁰⁵ Tracy & Hinrichs, *supra* note 14, at 7; TRACY, A PHONETIC ITERATIVE APPROACH, *supra* note 98, at 71, 73; TRACY, QUALITATIVE RESEARCH METHODS, *SUPRA* NOTE 14, at 228.

¹⁰⁶ The sub-codes for the challenge category were reduced to include: Conflict/Disrespect; Discrimination; Family; Funding & Resource; Inequality-Advocacy-Political Power; Injustice; Leadership; Personal Debt and Financial Struggle; Public-Defender-Prosecutor Inequality; Routine/Long Hours & Days; Struggle; Support; and Trauma.



defender-prosecutor inequality) and general funding challenges (funding and resources).¹⁰⁷ The AI code for location and its sub-codes were eliminated for this paper but saved for future analysis. Some AI-identified challenges overlapped with other categories and my coding, including personal resources and support, social justice, and workplace challenges. Working through this process, the sub-codes were narrowed, merged, and reduced, but the categories were left for second-cycle analysis.¹⁰⁸

iii. *Second-and-Third-Cycle Coding and Themes*

During second-and-third-cycle coding,¹⁰⁹ patterns and themes emerged; poignant examples were identified, providing illustrative examples of the complex lived experiences, motivations, and challenges of public defense work and the proposed opportunities for structural solutions.¹¹⁰ Negative case analysis was conducted throughout the process, identifying cases that did not fit the patterns—for example, examining more closely respondents who reported not experiencing any career barriers.¹¹¹ While evaluating the codes, a loose outline was created and edited, which revealed general patterns regarding public defender *motivations, challenges, and solutions*.¹¹²

III. RESULTS

Umbrella themes emerged through iterative, reflective analysis on how public defenders connected their occupational motivations and challenges and suggested policy solutions, concentrating on systemic and structural changes. Public defenders are deeply engaged in their work; they express several motivations, but their overriding purpose is grounded in *social justice advocacy*. They described remaining engaged and motivated despite confronting *structural challenges*. Their work engagement was not the antipode or antidote to burnout;¹¹³ public defenders' dedication further their suffering from resource depletion and the stresses of injustice.¹¹⁴ The improvements they recommended were largely systemic.

A. *What Motivates Public Defenders? Social Justice Advocacy*

Respondents identified the primary purpose or motivation for working in public defense as revolving around social justice. Most described intrinsic motivations¹¹⁵ related to (1) meaningful, interesting work and (2) advocacy and service. The described motivations

¹⁰⁷ Reviewing the AI codes was time-consuming, however doing so provided a new lens through which to critically evaluate how to interpret the participants' responses.

¹⁰⁸ The AI categories: Challenges, Client-Centered Approach, Covid-19 Impact, Personal Resources and Support, Social Justice, Values, Work Motivation, and Workplace Challenges.

¹⁰⁹ Johnny Saldaña, *THE CODING MANUAL FOR QUALITATIVE RESEARCHERS* (2016).

¹¹⁰ TRACY, *QUALITATIVE RESEARCH METHODS*, *SUPRA* NOTE 14, at 245.

¹¹¹ *Id.* at 228–29.

¹¹² *Id.* at 229.

¹¹³ Nerstad, et al., *supra* note 17, at 14. *Cf.* Maslach, *Burnout and Engagement in the Workplace*, *supra* note 41.

¹¹⁴ Baćak, et al., *The Stress of Injustice*, *supra* note 11, at 2; Bakker, et al., *supra* note 74, at 405.

¹¹⁵ Baćak, et al., *"Fighting the Good Fight," supra* note 6, at 944 (defining intrinsic motivations as providing "intangible internal rewards, including a sense of accomplishment and contribution to causes of personal importance").



are captured by the concept of “cause lawyering.”¹¹⁶ They described being drawn to public defense as a calling and desire to fight for justice, and their reasons for staying¹¹⁷ rooted in meaningful work, advocacy, and service:

Fighting the cause of the common man. [Case 13, African American Male]

The desire to serve underserved communities of color and to advocate on behalf of those who receive disparate treatment in our family law courts and in the criminal justice system. [Case 57, African American Female]

Some identified personal reasons for their service, grounded in their lived experiences with injustice:

Few public defenders identified purely extrinsic motivators¹¹⁸ of finances or public sector benefits.¹¹⁹ Several focused on the ability to “practice undiluted law” as “a trial lawyer, pure and true.” [Case 51, White Caucasian Female]. Even those who identified the extrinsic rewards of colleague camaraderie, compensation, and benefits¹²⁰ described mixed motivations with an overarching purpose of social justice for their clients or contributing to society and the community. Higher compensation was a concern, but the sentiment focused on the intrinsic value of the work:

Higher pay in other fields is a temptation, but what keeps me in this career is the way the job makes me feel...it’s important work that at the end of the day, regardless of how stressful or difficult it is, makes me proud. [Case 17, White Male]

¹¹⁶ *Id.* at 944, 950 (identifying intrinsic motivation themes around “clients, constitution, social inequality, and personal values,”) (citing STUART A. SCHEINGOLD & AUSTIN SARAT, *SOMETHING TO BELIEVE IN: POLITICS, PROFESSIONALISM, AND CAUSE LAWYERING* (2004) (they coined the term cause lawyering as being politically motivated to defend those in need)).

¹¹⁷ There were a couple of exceptions to this description. For example, one public defender described feeling stuck or typecast and not having the ability to leave the work, he described staying due to “inertia.” Doing the work for so long he thought it would be “difficult to change career paths without a lot of hassle and stress.” [Case 19, White Male]. Even this public defender described feeling respected and how to work effectively, pointing out that “the only thing that motivates me to leave . . . is the prospect of being able to make significantly more money in a position that would increase my quality of life.”

¹¹⁸ Baćak, et al., “*Fighting the Good Fight*,” *supra* note 6, at 944 (“[E]xtrinsic motivation is more instrumental, as it orients individuals toward actions likely to result in material or tangible rewards.”); *id.* at 949 (identifying that extrinsic motivation could be related to “colleagues and public sector benefits”).

¹¹⁹ One participant who described extrinsic motivations observed that she was originally drawn to contract work to supplement her income. Today, she enjoys her full-time public defender work without worrying about the challenges of a private office. (Case 30, white female).

¹²⁰ There were a couple of exceptions here as well, to . . . For example, one public defender described that he considered “leaving due to case and workloads being excessive.” He described the “pay [as] low, but okay. Benefits/pension [were] the only things really keeping [him] at this point.” [Case 9, White Male]. Another identified “loan forgiveness” as the reasons that she stayed in public defense. [Case 36, White Female].



It's been a long journey, but ultimately, it crystallizes around the idea of redemption. I believe and seek to prove that even people who do the worst things are not disposable. [Case 29, White Female]

Mixed with the extrinsic desire for the challenge and benefits of camaraderie, public defenders described the value of helping clients, feeling needed, and having purpose:

Supportive colleagues, interesting issues in my cases, clients who are interesting and need me, and a feeling that my life's purpose is tied to my work. [Case 63, White Female]

I stay because I like the work, the challenge, the sense that I am helping my clients and contributing to society. I am decently compensated and have good benefits that help my family. [Case 3, White Jewish Female]

Still others identified the theme that their work contributed more broadly to society:

This title [of public defender] is not just about doing a great job for my clients, but in advocating for the awareness of the needs of the community. [Case 23, White Cis-Apathetic Woman]

The relatively steady income and the feeling of giving back to the community. [Case 55, White Male]

The combined values and desire to work for social justice were counterbalanced, however, by *extrinsic* sources of stress. The organizational and structural challenges public defenders face are discussed in the next section.

B. What Challenges Caused Their Stress?

As identified above, public defenders described being highly motivated and engaged with their client-centered work, but these client-centered motivations also led to stress and compassion fatigue. Organizational and structural challenges caused their stress.¹²¹ The distinctions between the two types are blurry. Both fueled personal stressors (involving

¹²¹ Three male public defenders reported not experiencing any barriers or obstacles in their careers: (1) "I'm a white cis-gendered heterosexual man, so other than paying my student loans, not many" (Case 4, Identifying Information?); (2) "I have been fortunate to have supportive judges and counsels so have not had any major problems" (Case 7, White Male); (3) "None that I can think of" (Case 17, White Male). One female public defender said that she had not really experienced barriers or obstacles, but then went on to describe burnout: "I have had set-backs (i.e., not getting a promotion the first time I put in for one), but I have had a pretty strong and steady upward trajectory. The biggest setbacks have been internal . . . feeling momentary malaise or lack of motivation, burnout, etc. But I have been able to overcome those through family and partner support, and inspiring colleagues." (Case 14, White Female).



finances and work-life balance), and public defenders expressed frustration with the lack of support for themselves and their clients, including the lack of access to mental health counseling and investigative staff and resources. This paper defines the *organizational barriers* to be compensation, caseloads, bureaucracy, and issues with supervisors or leadership.¹²² The *structural barriers* are those related to the emotional burdens of the job, systemic injustices, and treatment by judges, prosecutors, police, and clients, ranging from disrespect to discrimination.

i. Organizational or Leadership Challenges

The constant (and expected) refrains about organizational challenges concern workload and inadequate compensation. Public defenders link workload with increased risks of burnout and ineffective assistance of counsel:

The caseload is what burns you out faster than anything.
[Case 2, White Female]

Lastly, I mention again the caseloads, which have been a continuous issue and barrier to providing effective assistance.
[Case 3, White Jewish Female]

The resource issue permeated the organizational barriers beyond heavy caseloads and included a lack of resources for investigations, mental health assistance, and lawyer training:

Not enough defenders, [and] inadequate training on changing technology. [Case 8, White Jewish Male]

Plenty of money for investigation and experts. [Case 14, White Female]

The work has become more difficult as the rise in severe mental health and much more difficult clients than when I started 25 years ago. [Case 11, White Italian/Irish Female]

The high workload was the single most common reason that public defenders provided for potentially leaving their careers:

Considering leaving due to case- and workloads being excessive. [Case 9, White Male]

¹²² Compensation and workload are likely structural issues too because funding and payroll structures and the caseloads of most public defenders' offices are beyond the control of the local organizations. Despite this recognition, here, they are examined as organizational challenges.



To drive home the point that workload reductions are necessary for reducing organizational and structural stress, retaining public defenders, and ensuring the effective assistance of counsel, some public defenders reported that their offices had successfully achieved caseload caps with favorable impacts:

The caseload limits also allow a better balance between work and personal life. (Case 30, White Female)

[Barriers were navigated because] resources now available [and] caseloads reasonable. [Case 32, Japanese Asian Male]

There were other organizational stressors for some public defenders who identified bureaucracy or politics and lack of support from supervisors or leaders:

I have considered leaving when I am exhausted from dealing with county politics, a bench that is heartless and careless and prosecutors who just want to see how much time they can get, instead of what's right. [Case 62, Hispanic-Indigenous Female]

My boss does not protect me from abuse or mistreatment by prosecutors and police and does not like to hear uncomfortable truths. I file my own complaints now and have to protect myself without backup. [Case 23, White Cis-Apathetic Woman]

In addition to the organizational challenges, public defenders also described structural barriers beyond the control of their leadership, including the profession's emotional burdens, systemic injustices, and negative treatment by judges, prosecutors, police, and clients. The structural barriers and challenges described by the public defenders are discussed next.

ii. Structural Challenges

The prominent structural challenges reported by public defenders concerned confronting the emotional burdens of the job and systemic injustices; others concerned negative treatment by other legal actors and clients, and community disrespect. The most detailed accounts concerned the emotional burden of public defense work:

It's hard to overstate the emotional burden of this job. I do love my work, but our clients' stories are painful to experience. Even when they're guilty, it's a lot to sit with because they are USUALLY victims themselves, so the front-row seat to mass incarceration is tough. We're just incarcerating people for having complex and untreated trauma, and that's



overwhelming to watch, especially because it doesn't have to be this way. [Case 2, White Female]

Public defenders identified their experiences as traumatic:

We need academic research [in]to the practice of public defense and the trauma it unleash[es] on the practitioners. [Case 13, African American Male]

There is a fair amount of secondary trauma. [Case 15, White Male]

The emotional burden and trauma were exacerbated by the constant drain of working in an inequitable system:

I have stayed for a little over 23 years and enjoy helping clients navigate the criminal justice system that in so many ways is unfair and unjust. I have considered leaving because of the unfairness, unjustness, and lack of support I receive from my office. [Case 39, White Male]

[As a reason for leaving,] the continued erosion of our freedom despite my best efforts over 25 years. [Case 45, White Male]

Other structural challenges concern treatment by others. This included other members of the legal system (judges, prosecutors, and police), clients, and even society at large. The mistreatment was described as disrespect, ingratitude, and discrimination. The disrespect was grounded in the idea that public defenders are not perceived as real attorneys, and they must continue to work harder and harder to prove themselves, with the job lacking prestige and political power (especially compared to prosecutors):

[Barriers] from clients and judges: since you are a public defender, they often think of you as a second-rate lawyer even though we have the highest win rate and the best attorneys in the state. From DAs: a constant battle to remind them that their job is to seek justice, not convictions. From other attorneys: cleaning up their mess when they fail to meet their professional obligations. For all of these, it's about keeping your head down, relying on your colleagues, and being professional to the point where they can't ignore your skills or take for granted your abilities. [Case 37, Puerto Rican Male]



The lack of political power among and for public defenders limits our access to funding and reforms and means that we are frequently underfunded unless we are able to attract private philanthropic funding. [Case 26, White Male]

The inadequacy of defenders' compensation in many instances tied to feeling devalued or lacking the respect of the community:

Very stressful, our job is not respected in the community at all. [Case 41, White Female]

I work very hard, and I'm proud of the work I do, but my salary reflects a society that doesn't think what I do is valuable. [Case 2, White Female]□

Some public defenders experienced broad and multi-faceted types of discrimination, noting particular animosity from clients:

Racism (I am multi-racial) which required both patience and willingness to take risks at the appropriate time, both in jury trials and interpersonal relationships . . . Personal animus from clients, jurors, police officers, and prosecutors. Doing what one had to do to cope was all that could be done. [Case 6, Mixed-Race Hispanic-Native American Male]

Being a female lawyer was definitely challenging, especially earlier in my career. There are still the occasional clients who treat me less than professionally, and there are certainly some older male prosecutors who tend to be condescending and think they can bully a woman. [Case 10, White Female]

As a woman, I still find myself and my expertise questioned by sexist jurists. The private bar, that is relied upon for conflict cases, are racist, sexist men and while I'd love to recommend to the court that they no longer use them, there are no alternatives. I continue to see and believe that women have to be more prepared and more educated on every topic when appearing in court whether the judge is male or female. It is even more challenging if you are also a BIPOC. The judges I regularly appear in front of, started treating me differently when they realized that I identify as indigenous. and by differently, I mean, poorly. [Case 62, Indigenous-Hispanic Female]



Racism is a major problem. Discrimination based on social/economic status is as well. As an attorney, taking into account the “systemic” and “systematic” aspects above, which are the most weighty, the main barrier is the law. [Case 56, White Male]

The organizational and structural challenges culminated for public defenders by impacting their work-life balance, taking a toll on their private and family lives. The consequences of the daily challenges of their work are described next.

iii. Work-Life Balance and the Toll on Families

Public defenders’ challenges are wide-ranging. Often, they provided a laundry list of obstacles and barriers and characterized their negative and cumulative effects on their ability to juggle work and life. Some mentioned coping with the stress by being socially active and spending time with family. Others still explained that it took time for them to balance work and life, keeping them separate and juggling with the help of good partners and friends:

After 29 years, I’ve learned to at least try to keep the frustrations that often come from public defense from negatively impacting my life away from work. Having a great partner and good friends not involved in the law helps. [Case 4, White Male]

My husband was able to stay home with the kids in the mornings when I had court, and I stayed at home in the afternoons so he could go to work. [Case 25, White Northern European Female]

For many, however, juggling work and family has been hard, taking a toll on time with family and children:

Work/life balance is an issue for all of us. I struggle to take time for myself and not respond to emails/texts from clients at all hours. It is so easy to feel guilty for taking time for yourself because you know how difficult your clients’ lives are and that their current situation weighs on them greatly. Boundaries are hard to keep. It’s also difficult for families to understand the limits of our time. Because public defenders are always supposed to be ready, we are often added to trial dockets at the last minute. I struggle to get my family to understand that the only way I can make plans is to file a “secured leave” form with the court and that has to be done 90 days out. My family and friends, at least, find it hard to understand that as a professional my time is dictated to such a degree by other people. [Case 40, White Female]



I can count on one hand the number of times I've had the time to volunteer at my daughter's schools but it would take more than my fingers and toes to count how many times I've said no to some extracurricular activity that she wants to do because I don't see a way to make it work with my work. I feel like she's growing up and I'm not there to see it or help her because all of my bandwidth is going to my clients and my office. [Case 62, Hispanic-Indigenous Female]

Additionally, housework and other obligations added to some public defenders' demands and stretched already limited resources:

Some evenings I just go home and work some more. I have been trying to do less of that recently because I realized how burned out I am. If I don't work, then there is often housework and yardwork to be done. [Case 10, White Female]

Wake up. Care for children, go to work/court. Come home. Take care of the household. Go to bed. Starts all over . . . With two kids, I am not sure how I will do with the whole work/life balance. [Case 47, White Female]

Public defenders try to juggle their work and lives but lack the resources to succeed:

I consider leaving because of the limitations on work-life balance and burnout. [Case 64, White Woman]

I don't think I do a good job navigating my career and my personal life. I recently listened to the book *Untamed* (on tape) and she talks about how she's a bad friend, that she doesn't return texts and phone calls and doesn't set up time with friends. It really resonated with me. While for her, it's because she's an introvert. For me, it's because I just don't have the bandwidth. [Case 62, Hispanic-Indigenous Female]

Defenders do not go into public defense for the money,¹²³ but still need quality of life, essential resources to pay their bills, and time to spend with their loved ones. Their compensation challenges were explained as being connected to the stress of being able to pay their bills and support their families:

Making ends meet while doing indigent representation.
Trying to find a balance with finances to meet my student

¹²³ As succinctly stated by Case 31 (White Female): "I'm not motivated by money."



loan obligation and bills while still being able to see my child at least once per day. (sigh). [Case 42, Caucasian, Non-Hispanic Female]

They often described personal strategies of exercising, drawing boundaries around work and home life, and commiserating with like-minded defenders to deal with stress and burnout. Several highlighted the importance and positive effect of organizational support that provided flexibility and reasonable work hours:

I generally enjoy the work I do, I try to work at work (so that home is separate from work); I balance the two by keeping them separate, and I try to always workout two times per week and go for walks with other attorney friends so we can vent together. I generally have a fair work schedule of 40 hours a week, so my work-life balance is very reasonable. [Case 11, White Italian/Irish Female]

I have been fortunate to work in an office that gave me great flexibility in my schedule, other than times I was in court. When I needed to work from home in the afternoons with a sick kid, I was able to do so. I could go to the jails on the weekends, to be able to go to parent/teacher meetings. [Case 25, White Norther-European Female]

There is a great deal of flexibility that comes with appellate work and I'm grateful for that. It allows me to get the kids early if they're sick or a classroom shuts down or whatever. That said, it can lead, and has led, to later nights working and reading and writing. [Case 27, White Female]

Defenders advance reasonable job demands and resource support as essential for avoiding burnout or leaving the profession. They connected their recommended solutions to the organizational and structural challenges which cannot be resolved by personal stress-reducing strategies. Several public defenders reported reduced workload demands through reasonable caseload limits and support from supervisors; these examples demonstrate that balancing job demands and resources will positively affect individual defenders and the criminal legal system. The public defenders' proposed solutions are discussed in the next section.

C. What Do Public Defenders Recommend as Solutions?

Public defenders mentioned organizational and structural solutions; the most compelling addressed systemic changes. Organizational and structural challenges are intertwined with two overarching and connected themes that emerged. The first concerned support and flexibility, and the second concerned increased resources, reduced workloads,



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and fairer treatment of clients. Public defenders linked the proposed changes to improving work-life balance and ensuring the effective assistance of counsel.

The organizational-focused successes and recommended solutions advanced by public defenders involved support and flexibility:

Bearing and raising kids as a PD was a challenging experience but my office had decent maternity leave and some flexibility for assignments. [Case 3, White Jewish Female]

I have been fortunate to work in an office that gave me great flexibility in my schedule, other than times I was in court. When I needed to work from home in the afternoons with a sick kid, I was able to do so. I could go to the jails on the weekends, to be able to go to parent/teacher meetings. [Case 25, White-Northern European Female]

Having support at the office from others who can handle administrative obligations while I'm on vacation or otherwise unavailable is a huge asset. I know the office can function without me. I talk to my family during the day, and encourage my employees to do so, as I know this profession can be taxing and it's hard to concentrate on clients if there are pressing family matters. [Case 31, White Female]

Therapy, medication, exercise, work colleagues that become personal friends that understand and sympathize regarding the grind. [Case 36, White Female]

I am fortunate that I work in an office that has a Chief Public Defender that prioritizes work life balance by 1) keeping a robust court-appointed list that prevents the public defenders from being overwhelmed and 2) making a collaborative workspace where we all support and cover for each other when we are sick, in trial, or if life just happens. [Case 37, Puerto Rican Male]

Support included time away, short breaks, and more vacations or sabbaticals for improving their mental health, which was connected with providing effective assistance of counsel:

One of my biggest complaints is the pressure we get from judges to move cases. It is like they forget that we are human beings who need time off, who need mental and emotional breaks, who can't work every weekend preparing a trial. I don't think they have any concept of the stress and the



emotional toll this job takes on us, and if they do have any sense of it, then they just don't care because moving cases is more important to them. [Case 10, White Female]

People need a meaningful break – without fear that it will hurt their compensation. [Case 38, White Female]

Some public defenders mentioned broad structural changes, like completely overhauling the legal system and the need for total reform:

Overall need for criminal justice reform. [Case 43, White Male]

The Criminal “Justice” System is full of socially disadvantaged individuals. The system looks for punishment versus social change. [Case 16, White Male]

Most identified more strategic reforms concerning funding and resources. The asserted solutions of increased compensation and reduced workloads concentrated on improving their lives, but were also intended to enhance representation, thereby producing a fairer justice system:

Adequate funding, judicial officers willing to not serve as an additional prosecutor, judicial officers willing to act without concern for re-election (or fear of being soft on crime), fair minded jurors, county officials willing to properly support mental health reform, appropriate response to homeless persons, clients who can appropriately work to help their own case, police officers who are non-racist, fair minded, who will tell the entire truth, police officers who kill fewer persons of color and young persons, and a criminal justice system that is not in and of itself criminal in its interactions with persons who become entangled therein. [Case 6, Mixed Race, Hispanic-Native American Male]

Public defenders identified solutions to reduce the challenges and causes of the “stresses of injustice” and avoid potential burnout. Even improved compensation was connected to ensuring that they provided effective assistance of counsel to their clients:

HIGHER PAY. More Public Defenders. More investigators, social workers, mitigation experts, jury experts, and support staff in general. District Attorneys who view the job as a collaborative effort to seek justice as opposed to being another arm of law enforcement. Decriminalization of



drug offenses and minor traffic offenses. More alternatives to convictions and incarceration (drug and mental health treatment courts; mediation, no-cost deferral programs). [Case 37 Puerto Rican Male]

Public defenders experience stress from their caseloads and financial stress, the lack of resources to deal with compassion fatigue and secondary trauma, and disrespect from the community. These are intertwined for public defenders and tied to their need for reduced caseloads, increased compensation, and general support:

Money, money, money and case load. The emotional tax of this job is bonkers. We'd all tolerate it better if we had money to do frivolous things like take a long weekend at the beach. (We do take vacations, but I think we need to take them more regularly to tolerate the vicarious trauma we all have.) I work very hard, and I'm proud of the work I do, but my salary reflects a society that doesn't think what I do is valuable. [Case 2, White Female]

More money and less cases. Respect from the general public. [Case 9, White Male]

Greater funding, the ability to recruit and retain additional attorneys and support staff, less bureaucratic obligations. [Case 21, White Male]

Provide additional resources, especially to handle massive amounts of digital data. I would shorten the time for hiring new employees as the county process takes too long. I would provide therapists for attorneys and staff who often face secondary trauma. [Case 31, White Female]

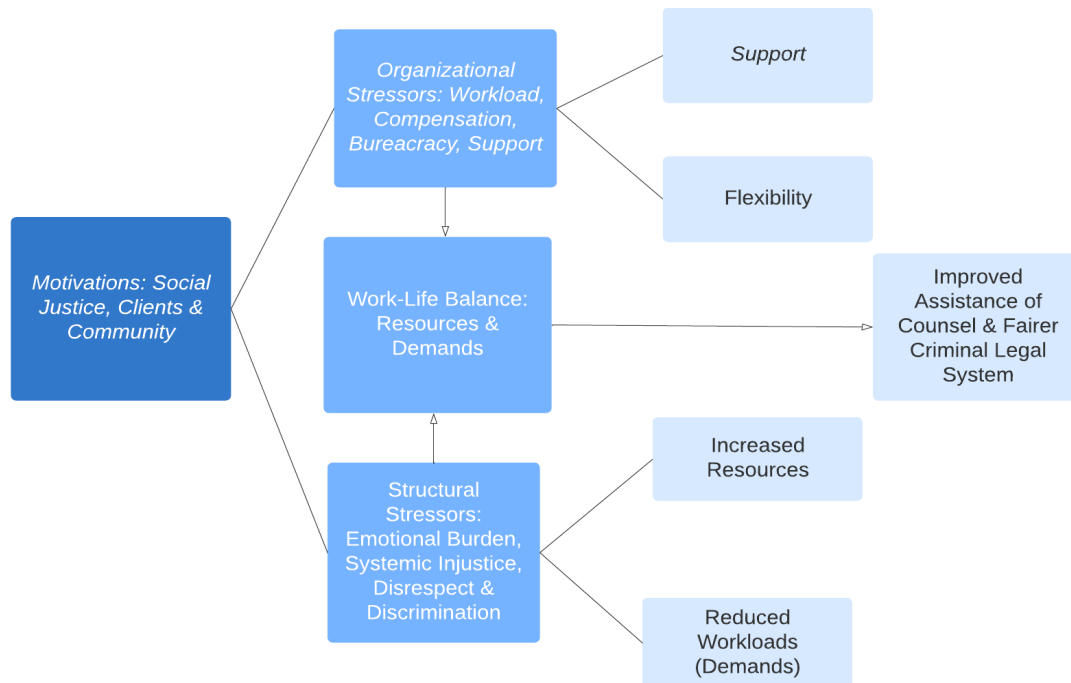
The findings from this exploratory Study demonstrate the uniqueness of the public defender experience by highlighting that they are highly engaged advocates who suffer from the organizational and structural challenges and inequities in the criminal legal system.¹²⁴ Personal stress-reducing strategies are ineffective in resolving these concerns. Figure One below depicts the connections that underscore public defenders' motivations, the stresses confronted as frontline workers, and proposed solutions that will improve their work-life balance and the fairness of the criminal legal system. Helping public defenders

¹²⁴ A Brennan Center report identified "five key challenges that contribute to defender resource disparity: improperly structured indigent defense systems, unsustainable workloads, defender-prosecutor salary disparity, insufficient support staff, and disparity federal funding as compared to law enforcement." BRYAN FURST, BRENNAN CTR. FOR JUST., *A FAIR FIGHT: ACHIEVING INDIGENT DEFENSE RESOURCE PARITY 2* (2019). The report also focused on the harmful effect on the accused, indigent defense culture, and trust but not on the effect on public defenders, their health, and well-being. *See generally id.*



who are highly motivated and engaged in their work by reducing their work demands and increasing supportive resources will improve their well-being and the health of the criminal legal system.

**Figure 1 PD Work Engagement, Job Demands and Resource Needs:
Improving Work-Life Balance & Criminal Legal System**



CONCLUSION

The motivators for this small dedicated sample support the prior research that found public defenders are intrinsically motivated to do this work and suffer from the stresses of injustice.¹²⁵ Extrinsic motivators were eclipsed by their values of social justice, helping clients, and serving the public.¹²⁶ As a *theoretical* contribution to the occupational stress literature, the current qualitative research offers rich descriptions of public defender work, supporting that work engagement and burnout are different concepts, functioning independently and distinctly.¹²⁷ Work engagement was not found to be universally positive, or the cure to burnout or even a means of preventing it.¹²⁸ The public defenders' experiences

¹²⁵ See, e.g., Baćak, et al., "Fighting the Good Fight," *supra* note 6; Baćak et al., *The Stress of Injustice*, *supra* note 11.

¹²⁶ *Cf. Id.*

¹²⁷ Nerstad, et al., *supra* note 17, at 12-14; Sarah-Genevieve Trepanier, et al., *Revisiting The Interplay Between Burnout And Work Engagement: An Exploratory Structural Equation Modeling (ESEM) Approach*, 2 BURNOUT RES. 51, 57 (2015); Bakker, et al., *supra* note 74, at 405.

¹²⁸ *Cf. Maslach, Burnout and Engagement in the Workplace*, *supra* note 41.



support the notion that engagement and burnout should be examined separately,¹²⁹ with an understanding that the two can co-exist,¹³⁰ or even that highly-motivated and engaged work might increase job demands and burnout.¹³¹ This might be particularly true of cause lawyers like public defenders, who are intrinsically-motivated and working in performance-weighted climates where success and representation matter, putting them at high risk of suffering from compassion fatigue, secondary trauma, and burnout.¹³²

One strength of the current Study is its qualitative approach to understanding the nuances of public defenders' lived experiences. The low response rate and the limited answers from the open-ended survey questions reflect the weaknesses of this exploratory work. Future research should gather information from a larger group of public defenders, explore differences in motivations and stress, and solutions and coping strategies based on gender,¹³³ race/ethnicity,¹³⁴ age/time in the profession, office location (urban/suburban, state/federal), and type of indigent defense organization (contract, appointed, or public defender). With more women joining public defenders' offices¹³⁵ and women reporting disparate and different barriers to success and increased chances of burnout,¹³⁶ future research should focus on the lived experiences of women public defenders. Research designs that involve in-depth interviews or diary studies that allow public defenders to provide regular reports

¹²⁹ Evangelia Demerouti, Karina Mostert, & Arnold B. Bakker, *Burnout and work engagement: A thorough investigation of the independency of both constructs*, 15(3) J. OCCUPATIONAL HEALTH PSYCH. 209, 218 (2010); Angus C. H. Kuok & Robert J. Taormina, *Work Engagement: Evolution of the Concept and a New Inventory*, 10 PSYCH. THOUGHT 262, 262, 279–80 (2017); Mario A. Trogolo, et al., *Work Engagement and Burnout: Real, Redundant, or Both? A Further Examination Using a Bifactor Modelling Approach*, 29 EUR. J. WORK & ORG. PSYCH. 922, 931–32 (2020); Wilmar Schaufeli & Marisa Salanova, *Work Engagement: On How to Better Catch a Slippery Concept*, 20 EUR. J. WORK & ORG. PSYCH. 39, 45 (2011) (“[R]ather than two sides of the same coin, work engagement and burnout are two different coins[.]”).

¹³⁰ Bakker, et al., *supra* note 74, at 405 (identifying the job demands-resources model to understand how engagement and burnout may coexist).

¹³¹ Nerstad, et al., *supra* note 17, at 1 (finding that “employees with too much work engagement may be exposed to a higher risk of burnout”); Bakker, et al., *supra* note 74.

¹³² Nerstad, et al., *supra* note 17, at 13-14.

¹³³ Women are more likely to confront discrimination and gendered obstacles, which increase their stress and likely their proposed solutions for correcting these challenges. See Fiona Kay & Elizabeth Gorman, *Women in the Legal Profession*, 4 ANN. REV. L. & SOC. SCI. 299, 305–15 (2008); Ahranjani, *Toughen Up, Buttercup*, *supra* note 57, at 149 (“It is clear that system-wide change is needed to retain women—especially women with intersectional identities—in criminal law.”); MARYAM AHRANJANI, PULLING BACK THE CURTAIN: A FOLLOW-UP REPORT FROM THE ABA CRIMINAL JUSTICE SECTION WOMEN IN CRIMINAL JUSTICE TASK FORCE (2021); Donna M. Eansor & Kathryn D. Lafreniere, *Occupational and Mental Health Consequences of Women’s Experiences of Gender Discrimination and Negative Workplace Acts in the Legal Profession*, 35 ADVANCING WOMEN IN LEADERSHIP 204, 211 (“On the whole, our findings point to the need for the law profession to attend to and address negative workplace behaviors, including gender discrimination, in order to increase women lawyers’ job satisfaction and safeguard their health and well-being.”) (2015); ROBERTA D. LIEBENBERG & STEPHANIE A. SCHARF, WALKING OUT THE DOOR: THE FACTS, FIGURES, AND FUTURE OF EXPERIENCED WOMEN LAWYERS IN PRIVATE PRACTICE (2019), https://www.americanbar.org/groups/diversity/women/initiatives_awards/long-term-careers-for-women/walking-out-the-door/.

¹³⁴ See, e.g., Joni Hersch & Erin E. Meyers, *Why Are Seemingly Satisfied Female Lawyers Running For The Exits? Resolving The Paradox Using National Data*. 102 MARQ. L. REV. 915, 915–48 (2019); Kathleen E. Hull, *The Paradox Of The Contented Female Lawyer* 33(5) L. AND SOC’Y REV. 687, 690 (1999); Milan Markovic, & Gabriele Plickert, *The Paradox Of Minority Attorney Satisfaction*, 60 INT’L REV. L. & ECON. 1, 9-10(2019).

¹³⁵ THE DEMOGRAPHICS OF JOBS FROM 1991-2021, NAT’L ASS’N FOR L. PLACEMENT (Mar. 2023), <https://www.nalp.org/0323research>; Joni Hersch & Erin E. Meyers, *Why Are Seemingly Satisfied Female Lawyers Running For The Exits? Resolving The Paradox Using National Data*. 102 MARQ. L. REV. 915, 930 (2019).

¹³⁶ See note 57; SHERRIE BOURG CARTER, HIGH OCTANE WOMEN: HOW SUPERACHIEVERS CAN AVOID BURNOUT (2010).



on their experiences and capture day-to-day events, struggles, successes, and coping strategies would encourage richer descriptions of lived experiences, the ebb-and-flow of stressors, and how public defenders manage trauma and emotions.¹³⁷ Intervention studies would provide the “best way to understand” the phenomenon, evaluating changes using the job-demands-resources model¹³⁸ to examine whether changes in job demand and available resources enhance work-life balance, reduce stress, and improve representation.

Finally, some practitioner-centered recommendations may be drawn from this preliminary work. Public defenders advanced solutions that emphasized support and flexibility, increased resources, and reduced workloads that they urged would simultaneously improve their work-life balance and the functioning of the criminal legal system. They explained that their reasons for staying were intrinsic, but their reasons for considering leaving were extrinsic. Most wanted to remain public defenders but felt that they might be driven from their careers without system improvements. The organizational solutions focused on improving work-life balance and flexibility to support juggling their work and home lives. Some participants reported improved work-life balance when their organization imposed caseload caps and offered flexibility in their work assignments. In dealing with structural stressors (i.e., compassion fatigue and the stresses of injustice), participants urged access to support, including mental health treatment for themselves and their clients, reducing discrimination and increasing financial support to allow smaller caseloads and more time away from the day-to-day practice. Organizational and structural changes are even more important in light of the holistic-defense movement, making an already client-centered profession even more intertwined with clients’ trauma. In essence, the public defender participants urged a holistic approach to improving the criminal legal system, focusing on flexibility, support, respect, and fairness from judges, prosecutors, clients, and defender leadership.

¹³⁷ For a discussion of diary research design, see Arnold B. Bakker, Evangelia Demerouti, and Ana Sanz-Vergel, *Job-Demands-Resources Theory: Ten Years Later*, 10 ANNU. REV. ORGAN. PSYCHOL. ORGAN. BEHAV. 25, 36, 44 (2023). For qualitative studies of Australian lawyers on how they experience and recover from exposure to traumatic materials, see Patricia Weir et al., *Australian Lawyers’ Experience of Exposure to Traumatic Material: A Qualitative Study*, 28 PSYCHIATRY, PSYCH. & L. 363 (2021), and Patricia Weir et al., *A Diary Study of Australian Lawyers Working with Traumatic Material*, 29 PSYCHIATRY, PSYCH. & L. 610 (2022).

¹³⁸ Bakker, et al., *supra* note 74, at 45.

