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The Relentless Mental Toll of Public Defense

And what could make it better.

BY BEATRICE FERGUSON

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Welcome to [State of Mind](#), a new section from Slate and Arizona State University dedicated to exploring mental health. [Follow us on Twitter](#).

Jenny Andrews remembers her undergrad internship at a public defender's office as an "aha" moment. Andrews went to law school knowing exactly what she wanted to do, and as she studied under several veteran public defenders, "it was really instilled in me how

important the work was and how important it was to do it well and really dedicate yourself to it,” she said.

Upon graduating, Andrews threw herself wholeheartedly into defense work at an office in Oakland, California. It was a frenetic, relentless environment. People came in early and worked late. They grabbed quick naps under their desks at lunchtime, spent long days in court, and prepared for trials in the evenings. Initially, Andrews said, “having public defense sort of grow and expand into all parts of my life was actually really exciting and motivating and immersive.”

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Then abruptly, after around seven years of work, there was the thought: “I can’t do this at all anymore.” Andrews wrote her resignation letter.

When you ask public defenders why they entered the field, many cite the same powerful sense of purpose as Andrews. They describe an intense outrage toward the injustices of the criminal legal system and fervent dedication to fighting for the people they represent. Working in the field can be at once rewarding, stressful, and heartbreaking, a reality I encountered while working as a paralegal in a public defender’s office. Like other frontline workers, public defenders experience the painful toll of facing social injustice and inequality on a daily basis.

In the several decades following *Gideon v. Wainwright*—the 1963 Supreme Court decision establishing that any criminal defendant who could not afford an attorney had a right to have one appointed—the culture in public defenders’ offices broadly prized tireless, almost martyr-like dedication to the work. There was a sense of tough it out or else “you’re maybe not cut out for the work,” Andrews said.

That narrative is changing within the public defense community, a group that includes not only attorneys but also social workers, investigators, paralegals, and other staff. Public defenders are grappling, at the individual and systemic levels, with the mental health impacts of their work. Rather than implying weakness, public defenders suggest that recognizing and confronting the mental and emotional toll of their work may actually make them better at what they do.

At the heart of this steady change is the recognition that public defenders face distinct mental health challenges. Given the unique character of their work, typical mental health advice—exercise, go to therapy, talk to a friend—is often woefully insufficient. Structural barriers and under-resourcing take a toll on defenders’ sense of self and justice. They’re also exposed to direct and secondary trauma coupled with a lack of education about traumatic effects. For many reasons, formal mental health care can be inaccessible. And yet, public defenders across the country are making significant efforts to respond to these challenges.

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Public defenders represent clients facing devastating, potentially life-destroying punishments; they witness the effects of criminalizing mental health needs, substance use, and poverty. A 2020 study of public defenders, jointly conducted by faculty of Rutgers University–Newark and Drexel University, concluded that public defenders suffered from the “stress of injustice” or the “demands of working in a punitive system with laws and practices that target and punish those who are the most disadvantaged.”

Chronic under-resourcing compounds that toll: For every five defendants facing criminal charges in the United States, about four will be unable to pay for a private attorney. They will instead rely on public defenders or court-appointed lawyers. There are far from enough public defenders, however, to meet the need. In Oregon, the shortage of available public defenders is so acute that, as of October 2022, around 1,300 people facing criminal charges were denied attorneys. Many public defenders’ offices do not have the resources they need to effectively represent their clients.

Public defenders thus shoulder immense workloads and punishing schedules. For Andrews, there was a painful disconnect between the desire to do her work well and the grueling expectations accompanying high caseloads. “Very quickly, the motivation to do it well and the under-resourcing led to working later and later and later and later,” she said. Andrews recalled “working in the evenings, working on the weekends, falling out of touch with friends who were not in public defense, missing weddings, missing funerals, missing family reunions.”

Even so, systemic obstacles within the criminal legal system itself mean that it might not matter how zealously or energetically a public defender works—they’re still often unable to have the impact they hope for. For public defenders dedicated to the work, or coming into the field with the hypercompetitive spirit inculcated by some law schools, such setbacks can be devastating. “There’s a kind of frustration that eats at you,” Andrews said.

Andrews believes that her experience, and the experience of other public defenders who leave the work, can be understood using the concept of moral injury. Although the term originated in studies of veterans, it has been used to describe the experiences of frontline workers in fields like health care and education. The concept captures the experience of playing a part in something that deeply offends your beliefs and morals. Journalist Diane Silver described it as “a deep soul wound that pierces a person’s identity, sense of morality and relationship to society.” That resonated with Andrews: “It makes you feel like you came to a system to try to do something helpful, and the system is really inflicting harm—and there are times that you feel complicit in that,” she said.

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Public defenders do not, of course, only interact with systems: They interact with their clients, with judges, prosecutors, and court staff, and with their public-defender colleagues. In their day-to-day work, public defenders can be particularly susceptible to secondary traumatic stress. Also known as vicarious trauma, the concept was popularized by Charles Figley, and can be understood as the effects of being exposed to the traumatic experiences of another person. The important takeaway from the concept is that traumatic effects can be felt even if one doesn’t experience the trauma firsthand. According to Andrews, secondary traumatic stress appears often in the course of public defense work: “A huge piece of public defense is listening to really painful stories of experiences. Not just the facts of a particular case, which definitely can include someone being very severely harmed ... but it’s also the background information when we get to know the people that we represent and their families and communities.”

Whether they experience direct or secondary trauma, public defenders grapple with the associated mental and physical effects. Unfortunately, they might not have the knowledge or tools needed to even recognize their experiences in the context of trauma. Andrews said that some might think: “‘I don’t sleep,’ or ‘I have headaches,’ or ‘I have stomachaches; that’s just something that I deal with,’ as opposed to being something connected to the work and the way that we do the work.”

Public defenders who do choose to seek professional mental health care often face barriers. There are, of course, the generalized obstacles like cost and provider availability, but there are also specific struggles, like finding a therapist who understands public defense work. Tina Fang, the chief deputy public defender at the Office of the Colorado State Public Defender, cited the loathed question often posed to public defenders: *How could you defend that person?* “I’ve had therapists ask that question, and nothing will shut down a therapy session faster,” Fang said.

For others, taking time away from the office for therapy is untenable. Many public defenders may be behind even on medical and dental appointments, Andrews said, as getting away from the constant flow of work is a real challenge.

Concerns about confidentiality may also affect public defenders’ willingness to seek out care. Some public defenders, particularly non-attorney staff, worry about the exact boundaries of confidentiality and err on the side of not going into much detail when discussing the stresses of the work. Andrew Strenio, a former sentencing mitigation specialist at the Louisiana Capital Assistance Center, explained that when he personally sought out a counselor, “even in that professional and confidential setting, I would be self-limiting of what I would be able to disclose.”

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After a three-year break, Andrews returned to public defense in 2007. When she first came back, she found that “the messaging that I was getting was ... come up with a good cover story for this gap in your résumé.” Over time, however, she found it harder to keep things to herself. She began opening up not only about the toll of the work, but also about how she planned to approach it differently. To her excitement, she found it easy to connect with other public defenders interested in having the same conversation.

In 2018, Megan Ring was appointed as the head of the Office of the Colorado State Public Defender. As state leadership held strategy meetings following her appointment, they set out to increase resourcing and, relatedly, to improve public defender well-being across the

state. To Ring, this was essential: “There’s nothing more heartbreaking to me than getting a resignation letter from someone who says: ‘This is what I want to do, but my mental health can’t take it anymore, and that’s why I’m leaving,’ ” she said.

The office formed a peer support initiative for public defenders after learning about similar programs for health care workers. They initially hired and trained more than a dozen peer support workers from their existing staff, who were then made available as an on-call resource for public defenders to speak frankly with about the demands of their work and personal concerns. Peer support workers could make referrals to outside mental health services as well.

After the program began operating, the Colorado office received a \$250,000 grant from the state, explicitly earmarked for mental health services. The office put part of the money toward lining up therapists who understood public defense work, including a retired public defender. The office also provides reimbursements and aid for people paying out of pocket for mental health expenses. The peer support program continues to operate today and has grown in size. Meanwhile, across the country, other public defender offices are exploring mental health-focused initiatives to support their staff members.

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At the heart of efforts like the one in Colorado is a fundamental belief that addressing the toll of the work will make public defenders better equipped to do their jobs. In a practical sense, attending to mental health makes for more effective attorneys, social workers, paralegals, investigators, and other staff, who can be retained long-term.

What’s more, a frank discussion around the challenges of public defense work might provide another source of fuel for efforts to advocate for change in the criminal legal system. Andrews argues that the concept of moral injury can be an effective tool for turning a critical lens back on the systems in which public defenders work. In that sense, efforts to improve mental health for public defenders and advocacy efforts directed at changing the criminal legal system itself are not separate fights, but in fact inform and feed one another.

In that vein, Andrews cautions against focusing the conversation about mental health and public defense around self-care and individual mental health strategies. “Self-care is really not threatening to systems,” she said. “When you start talking about things structurally that offices need to do differently ... or that we need to, in the broad criminal legal system ... that creates a lot more tension.” ■

State of Mind is a partnership of Slate and Arizona State University that offers a practical look at our mental health system—and how to make it better.

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