

Understanding the impact of trauma work on Crown prosecutors working in New Zealand

Trauma is at the core of the criminal justice system and as a result, exposure to trauma is central to the work of criminal justice workers. Despite this, the reality criminal lawyers face in their occupational exposure to the multi-layered manifestations of trauma remains largely unacknowledged. This is disconcerting, particularly considering criminal lawyers' exposure to and rigorous analysis of potentially traumatic material (PTM) in physical form – i.e. 111 calls, photographs of injuries, victim impact statements – and also their interactions with traumatised and emotional individuals. There is evidence to suggest that working with PTM can have adverse consequences, manifested through altered cognitions and behaviour (e.g. *vicarious trauma* (VT); Figley, 1995, 2002; McCann & Pearlman, 1990). It has also been recognised that professionals may feel the need to mask naturally arising emotions such as distress and disgust to align with professional standards (e.g. *emotional labour* (EL); Hochschild, 1983). Both VT and EL have been found to exacerbate and lead to severe consequences if left unaddressed. While there is increasing interest in the impact of trauma on “helper professionals” such as therapists, doctors and social workers, legal practitioners have typically received less attention. As a subset of criminal lawyers in New Zealand, Crown prosecutors are unique in their exposure to some of the most violent and harmful criminal offending. Like other prosecutors but distinct from defence lawyers, they are subject to exceptional standards of fairness, objectivity and impartiality. This notion places an additional burden on prosecutors but is necessary; buttressing the objectivity of the criminal justice system, at least in theory, to provide a fair trial for the defendant whilst protecting the rights of the complainant/victim. These unique occupational risks inherent to the work of Crown prosecutors are likely to place them at heightened risk of VT and EL.

The study aimed to understand the lived experiences of Crown prosecutors in working with PTM. This research represents one of the few qualitative studies conducted with criminal lawyers who work with PTM. Three key questions guided this study:

1. What are New Zealand Crown prosecutors' experiences of working with PTM?
2. What sort of EL do Crown prosecutors experience, if any, through working in the criminal courts?
3. What factors in their personal and professional life might exacerbate or alleviate VT symptoms?

Participants were recruited through Crown solicitors who disseminated the information sheet and email notice to all practising Crown prosecutors in their respective firms. Willing participants were instructed to contact the research team directly. A total of nineteen Crown prosecutors participated in the current study. Interviews were conducted and audio recorded via Zoom. Reflexive thematic analysis (Braun & Clarke, 2006) was employed to identify recurring themes across datasets. The findings are summarised below.

Results

Q1: What are New Zealand Crown prosecutors' experiences of working with PTM?

Four distinct themes were identified across that described Crown prosecutors' experiences of working with PTM. These were named *types and extent of exposure*, *factors impacting personal functioning*, *coping in the moment* and *enduring impact on emotional and mental well-being*.

T1: Types and extent of exposure

This theme outlined the extent of Crown prosecutors' exposure to traumatic material and the various types of PTM experienced with on a day-to-day basis. Crown prosecutors described a multimodal and multisensory exposure to trauma in their roles, observing that *trauma is everywhere*. A *hierarchy of crime and responsibility* was also reported where more experience in the role resulted in more complex or serious file allocations. Within this hierarchy, sexual offending was typically regarded as the most serious type of offending that Crown prosecutors would work with, and also the most traumatic in terms of case information. Trauma also manifested through *emotional transference from complainant/victim harm*. Whilst paper-based evidence could be reappraised as factual, the evidence of suffering through meeting a complainant or victim was viewed as much more difficult for Crown prosecutors to manage and distance themselves from.

T2: Factors impacting personal functioning

Three factors were identified as detrimentally impacting the emotional and mental well-being of Crown prosecutors. Meeting with complainants prior to a trial invoked a *sense of responsibility to complainants* among Crown prosecutors, as it reinforced the real consequences of losing a trial for the complainant and their family. Unsuccessful trials led several participants to disclose feelings of professional inadequacy and guilt in their roles. Working as a Crown prosecutor also led to an unforeseen and confronting *exposure to the "real" New Zealand*, such as high incidences of violent crime locally and the over-representation of Māori in the criminal justice system. Although this introduction was viewed in a negative light, Crown prosecutors also reflected on feeling privileged in their own experiences compared to those of others they encountered in their roles. In addition, *personal connections to cases*, such as similarities to personally experienced trauma, were described as the most triggering. Working on such cases were described as extremely challenging, even more so than offence types objectively characterised as having a higher valence of traumatic material. In other words, Crown prosecutors described cases mirroring their personal traumas as more difficult than PTM in cases of violent offending such as murder.

T3: Coping in the moment

Crown prosecutors used three strategies as surface level protective measures to ensure their short-term wellbeing in their role. *Passive acceptance* helped Crown prosecutors to normalise trauma exposure in their roles as well as its negative impacts. However, negative experiences were often downplayed and reconceptualised as part and parcel of the job. *Survival through desensitisation* was also viewed as a necessity in the role, to cope with the consequences of trauma work. Becoming desensitised was typically viewed as an aspiration among Crown prosecutors. However, others presented desensitisation as a downfall rather than a strength; with desensitisation removing the ability to relate to others and to effectively support complainants and victims. Lastly, *maintaining professionalism* was a mechanism by which Crown prosecutors attempted to draw and maintain professional boundaries. Participants spoke of their own difficulties in emotional boundary setting, particularly in emotionally-charged proceedings. However, professionalism in the role allowed prosecutors to keep a level of distance between themselves and their emotional reactions to PTM.

T4: Enduring impact on emotional and mental well-being

Exposure to the trauma of others and employing short-term coping mechanisms led to enduring impacts on the emotional and mental well-being of Crown prosecutors in their professional and personal lives. The impacts were twofold; the *impact on self* and *impact on others*. Crown prosecutors described a range of difficulties they encountered in their lives from an inability to sleep to a heightened sense of paranoia for their personal safety and the safety of loved ones. These impacts, as

well as the all-consuming nature of the role impacted on Crown prosecutors' relationships with their significant others and/or family members. Many participants described limited emotional capacity in their roles which had led to the breakdown of their romantic relationships. In addition, Crown prosecutors prominently working with sexual offending disclosed difficulties in physical intimacy in their relationships.

Q2: What types of EL do Crown prosecutors experience, if any, through working in the criminal courts?

Two distinct themes were identified across the interviews with Crown prosecutors' experiences of EL in their roles. These were named *emotional atmosphere of the courtroom* and *creation and maintenance of the "prosecutor persona"*.

T1: Emotional atmosphere of the courtroom

Crown prosecutors reported EL as a routine part of their role in the courtroom, underpinned by a professional expectation that Crown prosecutors should display and maintain neutrality within the courtroom. The *environmental expectations* of the courtroom were viewed as dictating the removal of all emotion, despite proceedings often being emotionally charged. This juxtaposition in the courtroom created difficulties in performing EL for Crown prosecutors, as they worked to suppress normal "human reactions" to emotions to maintain neutrality in their roles. Further, individuals within the courtroom were seen to contribute to *creating/disrupting the atmosphere of the courtroom*, such as judges, defendants, defence lawyers. Crown prosecutors described people as bringing the emotion into the courtroom. Examples such as interpersonal conflict with defence lawyers were cited by Crown prosecutors as one example of a situation which Crown prosecutors were required to engage in EL (i.e. neutrality) in the role.

T2: Creation and maintenance of the "prosecutor persona"

To manage the difficulties that arose within the courtroom, Crown prosecutors described creating a work persona that encapsulated the *professional expectations of Crown prosecutors* (i.e. impartiality, objectivity, fairness). In addition, the *expectation of Crown prosecutors to be resilient* in their roles and unaffected by emotions necessitated the development of this persona as a protective mechanism. The "prosecutor persona" allowed Crown prosecutors to be, to some extent, emotionally distanced. The *maintenance of the persona* was regarded as of equal importance through interpersonal interactions with others in the courtroom (e.g. judges, lawyers, defendants, witnesses, victims) and court proceedings. However, Crown prosecutors found this challenging in confronting and emotional settings (e.g. distressing complainant/victim testimony or an aggressive judge). Participants often described using momentary coping strategies to maintain their persona while in the courtroom, explaining that showing emotions such as distress or sadness was incongruent with the role of a Crown prosecutor.

Q3: What factors in their personal and professional life might exacerbate or alleviate VT symptoms?

Three distinct themes were identified across the interviews with Crown prosecutors' experiences of factors in their lives that impacted VT symptoms. Alleviating factors were named *personal and work-based protective factors* and exacerbating factors were *occupational factors* and *lack of training, education and support*.

T1: Personal and work-based protective factors

The provision and maintenance of a *safe and supportive work environment* was viewed as one of the most important protective factors for Crown prosecutors. Comradery between colleagues stemmed from experiencing mutual hardships in the role and shared anecdotal experiences were described as being validating. Additionally, the *rewarding nature of the role* was a motivational factor for participants continuing their work as a Crown prosecutor, despite the difficulties faced in the role. *Engaging in self-care* both within and outside of the workplace was also viewed essential in the role.

Crown prosecutors' self-care ranged from exercise, limiting exposure to PTM (e.g. refraining from interacting with traumatic material until absolutely necessary) and seeking formal support.

T2: Occupational stressors

Occupational stressors were identified as exacerbating VT symptoms when working with PTM. The *pressures of the role* were viewed as stemming from the demanding and changing workload, as well as the expectation of Crown prosecutors to be perfect. The inability to meet demands set by judges or managers led to feelings of professional inadequacy in the role that led to harsh self-criticism. Further, a dismissive *workplace culture* led Crown prosecutors to perceive that help-seeking was a weakness. This fostered an environment where Crown prosecutors felt fearful to disclose they were struggling in fear of being viewed as incompetent. The final occupational stressor was identified as the *perception of injustice* within the criminal justice system. Through their role, Crown prosecutors discovered the fallibility and brokenness of the justice system that left them feeling helpless and defeated. This diminished the meaningfulness experienced in the role, with Crown prosecutors describing their despair in contributing to the harm experienced by complainants and victims through the criminal justice system.

T3: Lack of education, training and support

Crown prosecutor perceived that *nothing [could] prepare you* for the reality of working in the role. The solely academic focus on law school left Crown prosecutors feeling ill-equipped as to the practical skills of working in a trauma dominated space. This left them underprepared and anxious in their early careers to navigate the unforeseen challenges in the role. Furthermore, after starting in the role, inadequate training, supervision and support left Crown prosecutors describing their experience as being left to *[drown] in the deep end*. Particularly at the beginning of their careers, Crown prosecutors described feeling unsupported and overwhelmed in their roles. This increased the magnitude of the stress in the role and translated into feelings of professional inadequacy. The provision of (or rather lack of) effective formal support was raised by Crown prosecutors, in particular regarding difficulties in accessing these services. For example, the requirement of a direct referral from a partner to access support services provided at work. This featured as a major deterrent for Crown prosecutors, as many expressed concerns regarding confidentiality and being labelled as "weak".

Discussion and Conclusions

This study sought to investigate the experiences of New Zealand Crown prosecutors in working with PTM and its consequences (VT and EL). By gaining an in-depth understanding of the lived experiences of this group, it is hoped the contextual and unique factors of sustained trauma work can be identified and combatted, as well as achieving awareness and destigmatisation of the inevitable consequences of trauma work. This study, along with preliminary studies on criminal lawyers, has identified that Crown prosecutor experience significant negative consequences resulting from their occupational work with PTM and emotions. It is apparent that significant changes to policies and practice are required to address the concerns raised by Crown prosecutors, such as the provision of standardised, in-house formal support to normalise help-seeking, and routine and ongoing training in the role. This would ensure prosecutors "*give themselves permission to take care of themselves, to not be super people with no needs. What the other helping professions have learned is that you must take your own needs seriously to continue to have anything to offer to your clients*" (Silver et al., 2015; p. 25). There is an imperative, overarching duty of care to ensure they are not carrying out their work at their own detriment. The current issues identified must be remedied with urgency; at the individual level, to protect individual prosecutors; at the wider level, complainants and victims; and at an institutional level, the overall functioning of the criminal justice system.