



## The privilege and the pressure: judges' and magistrates' reflections on the sources and impacts of stress in judicial work

Carly Schrever<sup>a</sup>, Carol Hulbert<sup>a</sup> and Tania Sourdin<sup>b</sup>

<sup>a</sup>Melbourne School of Psychological Sciences, University of Melbourne, Melbourne, VIC, Australia;

<sup>b</sup>Newcastle Law School, University of Newcastle, Newcastle, NSW, Australia

There is growing evidence that judges and magistrates experience both high stress and high satisfaction in their work; however, the subjective experience of judicial stress and the cultural and professional factors shaping that experience remain largely unexamined. This qualitative study builds upon earlier quantitative research with the Australian judiciary, by exploring judges' and magistrates' perceptions of the sources and impacts of judicial stress and their ideas for court responses. Thematic analysis of 59 in-depth interviews with judicial officers from five Australian courts revealed eight themes pertaining to the better understanding and management of occupational stress within the judiciary. Implications for courts and individual judicial officers are discussed.

**Keywords:** judges; judicial job satisfaction; judicial stress; judicial wellbeing; magistrates; qualitative research; systemic intervention; thematic analysis; workload stress.

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### Introduction

Although historically a taboo topic, one barely discussed let alone researched (Kirby, 1995, 1997a, 1997b), there is now growing evidence that judicial stress is a significant and global problem demanding action (Casaleiro et al., 2021; Global Judicial Integrity Network, 2022; Schrever et al., 2019, 2022). There is also evidence that, notwithstanding the stress they encounter, judicial officers experience high levels of job satisfaction. While a number of studies over the past 30 years have sought to identify the sources and impacts of judicial stress, we argue that insufficient attention has been given to judicial officers' subjective experience of stress within the judicial role – in particular, their perceptions of factors that both exacerbate and ameliorate stress, how

they respond to stress, and their ideas for how courts could better support them. A rich and detailed understanding of judges' and magistrates' experiences of stress is needed if organisational and systemic judicial wellbeing initiatives are to be credible and effective.

### *Stress in the judiciary*

Over the past three decades, and particularly during the last five years, empirical research from multiple countries has found that judicial officers face high levels of stress associated with their work (Casaleiro et al., 2021; Iversen & Robertson, 2021; Schrever et al., 2019, 2022). For example, we have previously reported that Australian judicial officers

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Correspondence: Carly Schrever, Melbourne School of Psychological Sciences, University of Melbourne, Victoria, VIC 3010, Australia. Email: [carly.schrever@gmail.com](mailto:carly.schrever@gmail.com)

experience elevated levels of psychological distress, with burnout, secondary trauma and alcohol misuse being prominent features of the judicial stress experience (Schrever et al., 2019). These findings are broadly consistent with a number of prior (Eells & Showalter, 1994; Lustig, Delicchi, et al., 2008; Tsai & Chan, 2010) and subsequent (Kong et al., 2021; O’Sullivan et al., 2022) studies and theoretical models (Hagen & Bogaerts, 2013; Miller & Richardson, 2006) from around the world. We also found that, while judicial officers’ levels of stress were high, their levels of mental ill-health (depressive and anxious symptoms) were relatively low (Schrever et al., 2019), indicating that the ‘judicial stress problem’ in Australia is, to date, not manifesting as a widespread mental health problem.

This suggests a point of distinction between the judiciary and the rest of the legal profession; in the latter, mental illness, especially depression, appears to be a pervasive and entrenched occupational hazard (Chan et al., 2014; Krill et al., 2016; Soon et al., 2023). The reasons behind this observed difference between the judiciary and practising lawyers have not been directly explored, but (consistent with most models of occupational stress: Ganster & Rosen, 2013; Lemke et al., 2023; Sharit & Salvendy, 1982) they likely include some combination of work and individual factors. Importantly, almost all empirical research on judicial stress to date has been quantitative and survey based. Qualitative research is needed to better understand the perceptions and experiences that accompany judicial officers’ reported levels of distress.

### *Drivers of judicial stress*

Previous empirical research has explored the factors driving judicial stress in various ways. Although the theoretical frameworks, measures and methods vary widely across this research, together the findings suggest that key stressors of the role include workload (Ciocoiu et al., 2010a; Eells & Showalter, 1994; Global Judicial Integrity Network, 2022; Lustig,

Karnik, et al., 2008; Resnick et al., 2011; Swenson et al., 2020); case content (C. P. Edwards & Miller, 2019; Eells & Showalter, 1994; O’Sullivan et al., 2022; Rogers et al., 1991); the impact of decisions (Swenson et al., 2020); the behaviour of parties, including self-represented parties (Lustig, Karnik, et al., 2008; O’Sullivan et al., 2022; Swenson et al., 2020); and organisational context (Amazarray et al., 2019; Krieger & Sheldon, 2015; Miller et al., 2018; Orlak & Tylka, 2017; Schrever et al., 2022). Perfectionism (Kong et al., 2021) and a trait-based need-for-control (Showalter & Martell, 1985; Tsai & Chan, 2010) appear to be risk factors associated with judicial ‘personality characteristics’ (Showalter & Martell, 1985).

In our own research in Australia, we considered the demographic and workplace drivers of judicial stress – testing effects of age, gender, seniority (years since appointment), location, area of legal practice and jurisdiction (summary, intermediate or superior court), as well as effects of ‘basic psychological need satisfaction’ (autonomy, competence and relatedness) within the self-determination theory (Deci & Ryan, 2000) model of occupational wellbeing (Schrever et al., 2022). We found significant effects for ‘jurisdiction’ and ‘basic psychological needs satisfaction’: judicial officers serving in the high-volume, summary jurisdictions (i.e. magistrates) were significantly more stressed across a range of validated measures than those serving in the trial and appellate jurisdictions (i.e. judges), and magistrates’ higher levels of stress were almost entirely explained by their lower levels of ‘autonomy’ and ‘relatedness’ satisfaction (Schrever et al., 2019). The finding that judicial stress falls hardest on those in the lower courts, and that this has something to do with the level of control and collegial support they experience within their work, is consistent with the two other significant research projects involving the Australian judiciary. One is a national sociological study of judicial workload and job satisfaction (Mack et al., 2012;

Roach Anleu & Mack, 2017), and the other is a psychological study of traumatic stress among judges and magistrates in New South Wales (O'Sullivan et al., 2022). While, as the above analysis shows, the drivers of judicial stress have been the subject of research interest for some time, we argue that in-depth qualitative inquiry is required to develop a granular understanding of the specific aspects of judicial work, context and professional approach that contribute most to the lived experience of occupational stress within the judiciary.

### ***Judicial stress – impacts, strategies and solutions***

The judicial stress literature to date has focused predominantly on measuring stress and/or identifying stressors; however, several studies have also sought to gather data on the *impact* of stress on judicial officers' health and occupational functioning and, to a lesser extent, their stress management *strategies* and thoughts on systemic *solutions*. Reported impacts of judicial stress include absenteeism (Graff, 2000), reduced productivity and performance (Bornstein et al., 2018; Graff, 2000; Miller et al., 2018), interference with attention and concentration (Swenson et al., 2020) and physical health complaints (Ciocoiu et al., 2010b; Swenson et al., 2020). Stress management strategies or 'psychosocial moderators' (Eells & Showalter, 1994, p. 80) have been directly explored in two American studies – one reporting that the strategies most commonly endorsed by judges were exercise, structured relaxation, good nutrition, sleep hygiene and social support (Swenson et al., 2020), and one reporting that stress was negatively correlated with self-reported engagement in certain psychological strategies, such as adopting a positive and flexible attitude (Eells & Showalter, 1994). Judicial officers' thoughts on systemic solutions have been broached tangentially in two studies, the findings of which together highlight the call for destigmatisation of stress, sustained focus on judicial wellbeing and court-provided

professional support (Global Judicial Integrity Network, 2022; Resnick et al., 2011).

Beyond the empirical studies discussed above, many psychological and sociolegal studies have cited likely negative effects of judicial stress and proffered possible management strategies and systemic solutions in their discussion of findings (e.g. Chamberlain & Miller, 2009; Flores et al., 2008; Harris et al., 2001; Miller et al., 2018). In addition, it is becoming increasingly common for judges and researchers of the judiciary alike to publish articles in judicial journals setting out strategies to support wellbeing in office, such as mindfulness, compassion, reflective practice and connection to meaning and purpose (Brafford & Rebele, 2018; Cole-Mossman et al., 2018; Fogel, 2016; Hueston & Hutchins, 2018; Prince, 2018). However, it is clear that judicial officers' direct experiences and ideas on these topics remain largely unresearched. The ways judicial stress affects them and their work, how they strive to cope, the contextual factors that help or hinder them and their ideas on which court-based interventions would make the biggest difference to their working lives must be better understood if judicial officers' occupational wellbeing and sustainability are to be systematically advanced.

### ***Stress and satisfaction***

It is important to remember that stress is just one aspect of the psychological experience of judging. The first study within the current project found that, notwithstanding the stress they encounter, judicial officers derive considerable 'personal wellbeing and satisfaction' from their work, and that judicial stress is frequently experienced alongside judicial wellbeing and satisfaction (Schrever et al., 2019).

The co-occurrence of stress and satisfaction in judicial work has been observed for some time, most notably in the extensive and detailed scholarship of two Australian sociolegal researchers, Roach Anleu and Mack (2005, 2009, 2014, 2017, 2021). Their substantial body of work is based on three large (100+

items) national surveys of Australian judicial officers and was further developed through interviews and court observations, focusing on judicial workload, skills needed for judicial work, emotion management and job satisfaction. They reported high levels of overall job satisfaction among judicial officers in Australia (Roach Anleu & Mack, 2009, 2014, 2017), especially regarding the ‘intrinsic’ aspects of judicial work (e.g. ‘intellectual challenge’, ‘work content’: Roach Anleu & Mack, 2017). They found, however, that when it came to the ‘extrinsic’ (e.g. salary, benefits) and ‘workplace-organisational context’ (e.g. policies and administration, control over amount of work), levels of satisfaction were more variable (Roach Anleu & Mack, 2017). Magistrates, in particular, expressed less satisfaction with their levels of control over amount and manner of work, and they were also more likely than judges to indicate that their work is always or often emotionally draining (47% of magistrates, cf. 31% of judges: Roach Anleu & Mack, 2017). Despite this, however, nine in 10 magistrates reported being satisfied or very satisfied with their job overall (Roach Anleu & Mack, 2014, 2017). This analysis suggests that while stress and satisfaction may be related, they are distinct constructs, capable of both coexisting and offsetting each other.

When Roach Anleu and Mack’s research on judicial job satisfaction is read in combination with the international scholarship on the associated concepts of judicial beliefs and attitudes (Appleby et al., 2019; Chase & Hora, 2009; Thomas, 2015, 2017, 2021, 2023), work engagement (Hakanen et al., 2012), flourishing (Rossouw & Rothmann, 2020b), emotion management (Maroney, 2019; Roach Anleu & Mack, 2005; Snider et al., 2022) and life-satisfaction (Hakanen et al., 2012; Krieger & Sheldon, 2015), it becomes apparent that judicial work entails a wide range of affective and cognitive phenomena. These psychological phenomena span the valence spectrum from positive to negative and likely affect judicial officers in a variety of interrelated ways. In-

depth qualitative research is needed to better understand how the positive and negative aspects of judicial work interact within the subjective experience of judging, and how judicial officers negotiate the complex and competing demands the role requires and the opportunities it delivers.

### *Qualitative research with the judiciary*

It has been noted that the judiciary is a ‘difficult population to study’ (Casaleiro et al., 2021, p. 1; see also: Darbyshire, 2011; Dobbin et al., 2001; Roach Anleu et al., 2015; Roach Anleu & Mack, 2014), especially in the context of qualitative research (Mustafa, 2021; Nir, 2018). Researchers have cited the high status and remoteness of the judiciary (Casaleiro et al., 2021), their ‘time poverty’ (Dobbin et al., 2001), assumed unwillingness to be investigated (Nir, 2018) and concerns about identification and confidentiality (Dobbin et al., 2001) as sources of this perceived ‘difficulty’ – all challenges that are believed to be amplified when the study involves in-person interviews (Mustafa, 2021; Nir, 2018). We argue that the challenges are greater still when the research topic concerns judicial officers’ suffering and vulnerability, as judicial officers may harbour concerns that such research could impact negatively on attitudes towards judges and even potentially fuel litigation directed at overturning judicial decisions. It is perhaps for this reason that, as discussed earlier, the majority of empirical studies of judicial stress have been quantitative and survey based.

Notwithstanding the difficulties, several in-depth interview studies concerning judicial officers’ psychological health and wellbeing have been conducted, for example in Canada (Rogers et al., 1991), the United States (Chamberlain & Miller, 2009) and South Africa (Rossouw & Rothmann, 2020a). These have largely confirmed the findings from earlier quantitative studies and surveys, but in addition they revealed factors associated with experiences of secondary traumatic stress and

burnout, as well as features of the judicial role that were perceived to be associated with occupational ‘flourishing’.

Beyond the judicial stress literature, qualitative research has been undertaken on other aspects of the judicial experience – such as judicial emotion (Roach Anleu & Mack, 2005; Roach Anleu et al., 2015; Roach Anleu & Mack, 2021), courtroom behaviour (Darbyshire, 2011), wisdom (Dunnivant & Levitt, 2015) and decision-making (Ashworth et al., 1984; Mustafa et al., 2020). While not setting out specifically to investigate judicial stress, the data and findings of many of these studies reveal much about the psychological impact of judicial work. Of greatest relevance to the current paper are the series of in-depth interview (Roach Anleu & Mack, 2005, 2017, 2021) and court observation (Roach Anleu et al., 2015) studies led by Roach Anleu and Mack (mentioned earlier), alongside their national judicial surveys (see the description of their project’s research methods appended in Roach Anleu & Mack, 2017). Their qualitative work paints a rich picture of the daily pressures and emotional impacts of judging in Australia and, when read together with the three small-scale interview studies on judicial stress from other countries, suggests that the personal challenges and rewards of dispensing justice are diverse and significant. They are also largely unexamined through the psychological lens. We argue that large-scale, in-depth, psychologically grounded research into the lived experience of stress in judicial office is urgently needed now. Such research should incorporate a detailed analysis of the sources and impacts of judicial stress, the role of contextual factors, and possible individual and systemic responses.

### ***This study***

The present study is the third of three reports arising from Australia’s first psychologically grounded research on judicial stress and wellbeing and represents the qualitative component of the mixed-methods research project. The

first (Schrever et al., 2019) and second (Schrever et al., 2022) established, through quantitative analysis of survey data, that, compared to the general population, Australian judicial officers report elevated levels of stress (especially non-specific psychological distress, burnout and secondary trauma) and low levels of mental ill-health (depression and anxiety), and that magistrates suffer significantly higher levels of stress than judges. In order to develop credible and targeted responses to judicial stress, a more nuanced understanding of how judicial officers experience and manage their stress is needed, including the factors that sustain them through difficult times and their ideas about what would help them and their colleagues to cope. The current study reports the qualitative analysis of in-depth interviews with 59 judicial officers from five Australian courts, conducted between July 2016 and June 2017. It is believed to be the largest scale, in-depth interview study of judicial officers’ occupational stress ever conducted. Specifically, the following research questions are addressed:

RQ1: How do judges and magistrates experience and manage stress within their roles?

RQ2: How could courts better support the wellbeing of judicial officers?

## **Method**

### ***Recruitment and participants***

Participants were a convenience sample of judicial officers from five Australian courts, which spanned the court hierarchy from summary to appellate level. Between July 2016 and April 2017, the lead researcher delivered presentations on judicial stress and wellbeing at the internal judicial conferences of the five participating courts. After each presentation, judicial officers from the relevant court were invited to complete a survey measuring a range of stress constructs and certain occupational wellbeing factors. One-hundred and

fifty-two judicial officers from across the five courts participated in the survey (for a detailed discussion of survey method and results, see Schrever et al., 2019, 2022). At the end of the survey, participants could express interest in participating in an in-depth, semi-structured interview by providing their contact details, either within the electronic survey, or by stamped, self-addressed envelope to the researcher. Sixty-seven judicial officers initially expressed interest; six withdrew, leaving 61 interview participants. The data from two interviews were lost due to file corruption, leaving 59 participants' interview data available for analysis. Table 1 sets out the sample size according to jurisdiction, gender identification, leadership status and seniority (years since appointment).

A condition of Heads of Jurisdiction support and ethics approval for the project was that neither the individual judicial officers nor the five participating courts be identified. It is therefore not possible to report specific response rates or representativeness statistics. It can, however, be reported that the sample comprised 24.79% of the total judicial population within the five participating courts (source: AIJA Judicial Gender Statistics March 2018) and was broadly representative across jurisdiction and seniority, while over-representative of female judicial officers and judicial officers in formal leadership roles

### Interview procedure

The interview questions drew upon ideas canvassed in the literature on judicial stress and were developed following discussions with research colleagues and several judicial officers regarding the matters of greatest relevance to understanding and responding to judicial stress. A draft of the questions was piloted in an internal project with one of the jurisdictions and further refined following feedback received. The final interview guide (see the Appendix) comprised nine stem questions, each with several supplementary questions,

exploring five broad topics: (a) sources of judicial stress; (b) sources of judicial satisfaction; (c) experiences and impacts of judicial stress; (d) personal strategies for managing stress; and (e) ideas for court responses.

Interviews were conducted between November 2016 and July 2017, with the interview times scheduled around judicial officers' court and personal commitments. The lead researcher met with each participant in their chambers, explained the process, and obtained their signed consent for the interview to be audio-recorded, independently transcribed and quoted in published research. The interviews proceeded according to the interview guide, with the lead researcher asking follow-up and clarifying questions as the conversation unfolded to ensure that all five topics were adequately covered. Each interview lasted approximately one hour. Non-identifying audio-recordings were transcribed by an academic transcription service and password protected. All identifying information was removed from transcripts prior to analysis.

### Data analysis strategy

The transcripts of 59 interviews ultimately comprised 1360 pages and over 400,000 words of raw qualitative data. The data were analysed according to the approach to thematic analysis described by Braun and Clarke (2006) as inductive, semantic and realist, and involved the following steps: (a) data immersion – the raw data were read through in their entirety by the lead researcher, and preliminary observations and reflections were noted; (b) initial code generation – using a separate Excel spreadsheet for each of the five topics addressed in the interview questions, all data extracts were identified and coded by an independent coder and checked by the lead researcher, generating over 2800 extracts and 400 initial codes, which were then tallied and sorted for prevalence and jurisdictional difference; (c) axial coding (Lune & Berg, 2016) – with reference to several existing models and

Table 1. Sample demographics.

	Sample		Population		Sample/ Population(%)
	<i>n</i>	%	<i>N</i>	%	
Jurisdiction <sup>a</sup>					
Higher	29	49.15	112	47.06	25.89
Summary	30	50.85	126	52.94	23.81
Gender identification					
Male	24	40.68	142	59.66	16.90
Female	35	59.32	96	40.34	36.46
Leadership status					
In formal leadership role	15	25.42	b		b
No formal leadership role	44	74.58	b		b
Seniority					
<2 years	3	5.08	b		b
2–4.9 years	4	6.79	b		b
5–9.9 years	20	33.90	b		b
10–14.9 years	14	23.73	b		b
15–19.9 years	9	15.25	b		b
>20 years	8	13.56	b		b
Total	59	100.00	238	100.00	24.79

Note: Population parameters obtained from The Australasian Institute of Judicial Administration (AIJA) Judicial Gender Statistics – Judges and Magistrates (% of Women) March 2018 (<https://aija.org.au/research/judicial-gender-statistics/>).

<sup>a</sup>Both ‘Higher’ and ‘Summary’ jurisdictions categories refer to more than one court.

<sup>b</sup>Data not available.

definitions of judicial and occupational stress (e.g. job demands–resources (JD–R) model, Demerouti et al., 2001; Hagen and Bogaerts model, Hagen & Bogaerts, 2013), the codes within each of the five interview topics were collated into axial categories to produce five axial code maps, with particular care given to whether codes support or contradict axial categories; (d) theme identification – the axial categories within the five maps were then reviewed as a whole to explore the relationships and patterns of meaning across the five broad interview topics, generating 12 candidate themes for the whole dataset; (e) theme review – the data extracts relating to each candidate theme were reviewed for coherence, and the themes were reviewed for overall narrative accuracy, recoding and recategorising as required, ultimately leading to six themes in response to RQ1 and two themes in response to RQ2; (f) theme labelling and definition – a short description of the content of each theme

was written and re-written until the essential content of the theme crystallised, and labels and definitions were ascribed to reflect the theme’s unique meaning within the project; (g) narrative generation – the meaning within each theme, and the ‘story’ that the themes together tell about the data, was iteratively drafted, discussed and refined until the final narrative for the study was settled.

#### A note on reporting

To preserve the anonymity of the individual judicial officers and the five participating courts, direct quotations from interviews are not accompanied by identifiers (e.g. interviewer ID number, gender, jurisdiction, years of service). To distinguish them from the surrounding comments, interviewees’ direct words are italicised. Occasionally, some demographic detail is included in the surrounding text of a specific quotation; however,

care has been taken not to include any identifying information.

## Results

### *Initial codes – prevalence and jurisdictional difference*

The initial coding of the data identified exactly 400 codes across the five broad topics covered in the survey questions. The codes within each topic were rank-ordered according to frequency of identification first within the sample as a whole, and then comparing magistrates and judges. The codes were then grouped into axial categories, to produce an axial code map for each of the five topics.

#### *Topic 1: Sources of stress*

Participants identified a wide array of stressors that they confronted in their work, generating 108 initial codes. Codes representing statements of six or more participants (i.e. 10%) are set out in Table 2. The most frequently identified stressor among judicial officers was ‘Workload’, being specifically identified by 49 (83%) of the 59 participants, followed by ‘Case content’ ( $n = 43$ ; 73%), ‘Media and public scrutiny’ ( $n = 26$ ; 44%), ‘Inadequate resources (staff)’ ( $n = 24$ ; 41%) and ‘Isolation’ ( $n = 23$ ; 39%). Of the stressors identified by magistrates only, ‘Lack of control over work’ ( $n = 17$ ; 57%) and ‘Inefficient or inflexible processes (e.g. workflow)’ ( $n = 15$ ; 50%) were respectively the third and fourth most frequently mentioned stressors, after ‘Workload’ ( $n = 28$ ; 93%) and ‘Case content’ ( $n = 20$ ; 67%), whilst among judges ‘Being appealed/Court of Appeal’ ( $n = 17$ ; 59%) and ‘Burden of outstanding judgments’ ( $n = 16$ ; 55%) were the third and fourth most frequently mentioned stressors after ‘Case content’ ( $n = 23$ ; 79%) and ‘Workload’ ( $n = 21$ ; 72%).

Some other notable points of difference between magistrates’ and judges’ identified sources of stress were that magistrates tended to emphasise organisational and cultural stressors – for example ‘Difficulty taking time off,

e.g. sick, caring’ (magistrates:  $n = 13$ ; 43%; cf. judges:  $n = 4$ ; 14%), ‘Unequal workloads’ (magistrates:  $n = 11$ ; 37%; cf. judges:  $n = 4$ ; 14%), and ‘Lack of support from leadership’ (magistrates:  $n = 10$ ; 33%; judges:  $n = 3$ ; 10%). By contrast, judges spoke more of the intrinsic features of the role – such as, ‘Writing reasons/judgments’ (judges:  $n = 11$ ; 38%; cf. magistrates:  $n = 0$ , 1%), ‘Sentencing’ (judges:  $n = 10$ ; 34%; cf. magistrates:  $n = 1$ , 3%) and ‘Burden of responsibility’ (judges:  $n = 9$ ; 31%; cf. magistrates:  $n = 2$ ; 7%).

A large number of additional stressors were mentioned by fewer than six participants (<10%) each, generating 60 low-prevalence codes, including 27 that were identified by only one participant each. These included ‘Feeling undervalued’ (magistrates:  $n = 4$ ; judges:  $n = 0$ ); ‘Doing cases outside of expertise’ (magistrates:  $n = 1$ ; judges:  $n = 3$ ); and ‘high personal standards’ (magistrates:  $n = 2$ ; judges:  $n = 3$ ).

#### *Topic 2: Sources of satisfaction*

When asked about the sources of satisfaction in judicial work, participants identified a number of positive features of their work, generating 39 initial codes: see Table 3 for the 14 high-prevalence ( $n \geq 6$ ) codes. The most frequently identified was ‘Feeling like I made a difference’, mentioned by 37 (63%) of participants, followed by ‘Performing the job well’ ( $n = 27$ ; 46%), ‘Work enjoyment’ ( $n = 22$ ; 37%) and ‘Collegial relationships’ ( $n = 18$ ; 31%). Interestingly, there was less agreement among magistrates and judges on the sources of satisfaction in office. Magistrates spoke of ‘Feeling like I made a difference’ (magistrates:  $n = 24$ ; 80%; cf. judges:  $n = 13$ ; 45%) and ‘Human interaction/human interest’ (magistrates:  $n = 12$ ; 40%; cf. judges:  $n = 4$ ; 14%), whereas judges emphasised ‘Performing the job well’ (judges:  $n = 17$ ; 59%; cf. magistrates:  $n = 9$ ; 30%) and ‘Intellectual stimulation’ (judges:  $n = 11$ ; 38%; cf. magistrates:  $n = 3$ ; 10%). There were 21 low-prevalence ( $n < 6$ ) codes, including ‘Feeling respected’



Table 2. Sources of stress.

Rank	Code	All (n = 59)		Magistrates (n = 30)		Judges (n = 29)	
		n	%	n	%	n	%
1.	Workload	49	83.05	28	93.33	21	72.41
2.	Nature of work, case content	43	72.88	20	66.67	23	79.31
3.	Media/public scrutiny	26	44.07	13	43.33	13	44.83
4.	Inadequate resources (staff)	24	40.68	13	43.33	11	37.93
5.	Isolation	23	38.98	13	43.33	10	34.48
6.	High pressure, including time pressure	22	37.29	11	36.67	11	37.93
7.	Inefficient or inflexible processes (e.g. workflow)	22	37.29	15	50.00	7	24.14
8.	Lack of control over work	22	37.29	17	56.67	5	17.24
9.	Burden of decision-making	20	33.90	12	40.00	8	27.59
10.	Being appealed/Court of Appeal	19	32.20	2	6.67	17	58.62
11.	Systemic issues	18	30.51	12	40.00	6	20.69
12.	Difficulty taking time off (sick, caring)	17	28.81	13	43.33	4	13.79
13.	Burden of outstanding judgments	17	28.81	1	3.33	16	55.17
14.	Lack of judicial support	16	27.12	9	30.00	7	24.14
15.	Lack of voice	15	25.42	8	26.67	7	24.14
16.	Negative culture	15	25.42	11	36.67	4	13.79
17.	Practitioner behaviour	15	25.42	4	13.33	11	37.93
18.	Unequal workloads	15	25.42	11	36.67	4	13.79
19.	Inadequate resources (funding)	13	22.03	10	33.33	3	10.34
20.	Lack of support from leadership	13	22.03	10	33.33	3	10.34
21.	Disparity in work ethic and performance	12	20.34	6	20.00	6	20.69
22.	Self-represented litigants	12	20.34	4	13.33	8	27.59
23.	Balancing home and work life	11	18.64	6	20.00	5	17.24
24.	Burden of responsibility	11	18.64	2	6.67	9	31.03
25.	Poor case management	11	18.64	8	26.67	3	10.34
26.	Sentencing	11	18.64	1	3.33	10	34.48
27.	Writing reasons/judgments	11	18.64	0	0.00	11	37.93
28.	Criticism, e.g. from media, appellate courts, colleagues	10	18.64	3	10.00	7	24.14
29.	Personal challenges	10	16.95	3	10.00	7	24.14
30.	Colleague's behaviour or personality issues	9	16.95	2	6.67	7	24.14
31.	Lack of feedback on performance	9	15.25	3	10.00	6	20.69
32.	Unsupportive collegiate relationships	9	15.25	5	16.67	4	13.79

*(Continued)*

Table 2. (Continued).

Rank	Code	All (n = 59)		Magistrates (n = 30)		Judges (n = 29)	
		n	%	n	%	n	%
33.	Complexity of role	8	13.56	3	10.00	5	17.24
34.	Lack of respect	8	13.56	4	13.33	4	13.79
35.	Managing staff (without management training)	8	13.56	1	3.33	7	24.14
36.	Security concerns	8	13.56	6	20.00	2	6.90
37.	Work conditions	8	13.56	2	6.67	6	20.69
38.	Bureaucracy	7	11.86	4	13.33	3	10.34
39.	Changes to law	7	11.86	4	13.33	3	10.34
40.	Not responding to the public's need	7	11.86	5	16.67	2	6.90
41.	Being in court every day	6	10.17	2	6.67	4	13.79
42.	Being on show	6	10.17	2	6.67	4	13.79
43.	Focus on quantity over quality of cases	6	10.17	5	16.67	1	3.45
44.	Independence of role	6	10.17	4	13.33	2	6.90
45.	Insufficient sentencing options	6	10.17	2	6.67	4	13.79
46.	Managing internal court politics	6	10.17	4	13.33	2	6.90

(magistrates:  $n = 1$ ; 3%; judges:  $n = 2$ ; 7%) and ‘Gratitude from parties’ (magistrates:  $n = 2$ ; 7%; judges:  $n = 3$ ; 10%).

*Topic 3: Impacts of stress*

Table 4 shows the higher prevalence ( $n \geq 6$ ) codes relating to the impacts or manifestations of judicial stress. The four most frequently mentioned were that stress led to ‘impatience, terse voice’ ( $n = 28$ ; 47%), ‘poor sleep’ ( $n = 26$ ; 44%), ‘tiredness, exhaustion’ ( $n = 21$ ; 36%) and ‘irritability’ ( $n = 21$ ; 36%). Magistrates spoke more than judges about ‘cognitive depletion, e.g. poor concentration’ (magistrates:  $n = 9$ ; 30%; cf. judges:  $n = 4$ ; 14%), ‘stopping doing the things they enjoy’ (magistrates:  $n = 8$ ; 27%; cf. judges:  $n = 4$ ; 14%), ‘social withdrawal’ (magistrates:  $n = 7$ ; 23%; cf. judges:  $n = 0$ , 0%) and ‘avoidance of work’ (magistrates:  $n = 5$ ; 17%; cf. judges:  $n = 1$ ; 3%). No higher prevalence codes were emphasised by

markedly more judges than magistrates. There were 26 lower prevalence ( $n < 6$ ) codes, including finding it ‘harder to make decisions’ ( $n = 4$ ; 7%), ‘increasing cynicism’ ( $n = 3$ ; 5%) and ‘starting to live the case’ ( $n = 3$ ; 5%).

*Topic 4: Strategies for managing stress*

The most mentioned personal strategy for managing stress in the judicial role was ‘physical exercise’ ( $n = 44$ ; 75%), followed by sourcing support from ‘collegial relationships’ ( $n = 28$ ; 48%), making regular time for ‘travel/holiday/time in nature’ ( $n = 28$ ; 48%), striving for ‘work/life balance’ ( $n = 21$ ; 36%) and accessing ‘professional help’ ( $n = 21$ ; 36%): see Table 5 for full list of high-prevalence ( $n \geq 6$ ) codes. Magistrates spoke of ‘purchasing extra leave’ (magistrates:  $n = 6$ ; 20%; cf. judges:  $n = 0$ ; 0%) and relying on their ‘supportive personal relationships’ (magistrates:  $n = 8$ ; 27%; cf. judges:  $n = 4$ ; 14%),

Table 3. Sources of satisfaction.

Rank	Initial code	All ( <i>n</i> = 59)		Magistrates ( <i>n</i> = 30)		Judges ( <i>n</i> = 29)	
		<i>n</i>	%	<i>n</i>	%	<i>n</i>	%
1.	Making a difference in people's lives	37	62.71	24	80.00	13	44.83
2.	Job performance (Doing a good job)	27	45.76	9	30.00	17	58.62
3.	Work enjoyment (Atmosphere of courtroom)	22	37.29	14	46.67	7	24.14
4.	Collegial relationships	18	30.51	5	16.67	13	44.83
5.	Human interaction/human interest	16	27.12	12	40.00	4	13.79
6.	Intellectual stimulation	14	23.73	3	10.00	11	37.93
7.	Completing tasks (e.g. list)	13	22.03	3	10.00	10	34.48
8.	Privilege of role	13	22.03	2	6.67	10	34.48
9.	Making decisions	12	20.34	6	20.00	6	20.69
10.	Contributing to social justice	11	18.64	2	6.67	8	27.59
11.	Participating in justice system reform	10	16.95	6	20.00	4	13.79
12.	Contributing to community (community service)	10	16.95	3	10.00	6	20.69
13.	Writing decisions/judgments	10	16.95	1	3.33	9	31.03
14.	Challenge/complexity	9	15.25	2	6.67	7	24.14
15.	Remuneration	8	13.56	3	10.00	5	17.24
16.	Judicial monitoring programme	7	11.86	5	16.67	2	6.90
17.	Treating all people well	7	11.86	2	6.67	5	17.24
18.	Work conditions	6	10.17	1	3.33	5	17.24

Table 4. Impacts of stress.

Rank	Initial code	All ( <i>n</i> = 59)		Magistrates ( <i>n</i> = 30)		Judges ( <i>n</i> = 29)	
		<i>n</i>	%	<i>n</i>	%	<i>n</i>	%
1.	Impatience, terse voice	28	47.46	16	53.33	12	41.38
2.	Poor sleep	26	44.07	11	36.67	15	51.72
3.	Tiredness, exhaustion	21	35.59	13	43.33	8	27.59
4.	Irritability	21	35.59	12	40.00	9	31.03
5.	Physically unwell (e.g. headaches, pain)	16	27.12	9	30.00	7	24.14
6.	Cognitive depletion (e.g. poor concentration)	13	22.03	9	30.00	4	13.79
7.	Stop doing things enjoy	12	20.34	8	26.67	4	13.79
8.	Anxiety, depression	12	20.34	7	23.33	5	17.24
9.	Difficulty in interpersonal relationships	11	18.64	5	16.67	6	20.69
10.	Rumination	11	18.64	4	13.33	7	24.14
11.	Reduced performance	9	15.25	5	16.67	4	13.79
12.	Social withdrawal	7	11.86	7	23.33	0	0.00
13.	Avoidance of work	6	10.17	5	16.67	1	3.45
14.	Emotional	6	10.17	3	10.00	3	10.34

whereas judges emphasised 'hobbies' (magistrates: *n* = 1; 3%; judges: *n* = 7; 24%) and 'self-management (e.g. self-talk for emotion

regulation)' (magistrates: *n* = 1; 3%; cf. judges: *n* = 6; 21%). Thirty-five lower frequency (*n* < 6) codes in this topic included

Table 5. Strategies for managing stress.

Rank	Initial code	All (n = 59)		Magistrates (n = 30)		Judges (n = 29)	
		n	%	n	%	n	%
1.	Exercise	44	74.58	19	63.33	25	86.21
2.	Collegiate relationships	28	47.46	15	50.00	13	44.83
3.	Travel/holiday/time in nature	28	47.46	15	50.00	13	44.83
4.	Work/life balance	21	35.59	9	30.00	12	41.38
5.	Professional help	21	35.59	12	40.00	9	31.03
6.	Attend stress workshop	14	23.73	9	30.00	5	17.24
7.	Supportive personal relationship	12	20.34	8	26.67	4	13.79
8.	Healthy social life/personal relationships outside of work	11	18.64	6	20.00	5	17.24
9.	Mindfulness/meditation/ breathing exercises	11	18.64	4	13.33	7	24.14
10.	Maintain defined work hours	10	16.95	6	20.00	4	13.79
11.	Break from normal work (e.g. after hours duty)	8	13.56	5	16.67	3	10.34
12.	Manage alcohol	8	13.56	3	10.00	5	17.24
13.	Take time off	8	13.56	4	13.33	4	13.79
14.	Hobbies	8	13.56	1	3.33	7	24.14
15.	Self-management (e.g. self-talk for emotional regulation)	7	11.86	1	3.33	6	20.69
16.	Purchasing extra leave	6	10.17	6	20.00	0	0.00

‘humour’ (n = 4; 7%), seeking constructive feedback through a ‘360 feedback program’, and ‘gardening’ (n = 3; 5%).

*Topic 5: Ideas for court responses*

The top five ideas for how courts could better support judicial wellbeing were ‘good leadership’ (n = 22; 37%), ‘adequate funding and/or resourcing’ (n = 14; 24%), ‘normalisation of stress’ (n = 14; 24%), ‘reduce workload’ (n = 13; 23%) and ‘provide time to attend wellbeing initiatives’ (n = 13; 23%). The higher prevalence (n ≥ 6) codes are set out in Table 6. Magistrates spoke more than judges about the importance of ‘good leadership’ (magistrates: n = 17; 57%; cf. judges: n = 5; 17%), ‘reducing working’ (magistrates: n = 10; 33%; cf. judges: n = 3; 10%), ‘more access to paid leave’ (magistrates: n = 9; 30%; cf. judges: n = 3; 10%) and ‘mandatory training’ (magistrates: n = 7; 23%; cf. judges:

n = 2; 7%). The only idea mentioned more frequently by judges was ‘access to a gym/exercise classes/personal trainer’ (magistrates: n = 0; 0%; cf. judges: n = 7; 24%). There were 78 distinct ideas comprising lower prevalence (n < 6) codes, including ‘more feedback opportunities’ (n = 5; 8%), ‘professional debriefing program’ (n = 4; 7%) and ‘option of part-time work’ (n = 4; 7%).

***RQ1: How do judges and magistrates experience and manage stress within their roles?***

Thematic analysis revealed six themes in response to RQ1: (a) workload is an issue for almost everyone; (b) most judicial officers feel that the sources of stress are increasing; (c) stressors of injustice are felt most keenly; (d) there remains a cultural reluctance to discuss stress and seek support; (e) alongside stress, there is a deep sense of job satisfaction; and (f)

Table 6. Ideas for court responses.

Rank	Initial code	All (n = 59)		Magistrates (n = 30)		Judges (n = 29)	
		n	%	n	%	n	%
1.	Good leadership	22	37.29	17	56.67	5	17.24
2.	Normalisation of stress	14	23.73	8	26.67	6	20.69
3.	Adequate funding and/or resourcing	14	23.73	9	30.00	5	17.24
4.	Reduce workload	13	22.03	10	33.33	3	10.34
5.	Provide time to attend wellbeing initiatives	13	22.03	7	23.33	6	20.69
6.	More access to paid leave	12	20.34	9	30.00	3	10.34
7.	Cultural change	12	20.34	6	20.00	6	20.69
8.	Opportunities for reflection and awareness	10	16.95	5	16.67	5	17.24
9.	Keep wellbeing on the agenda	10	16.95	7	23.33	3	10.34
10.	Mandatory training	9	15.25	7	23.33	2	6.90
11.	Peer support	9	15.25	6	20.00	3	10.34
12.	Court-funded annual check ups	7	11.86	3	10.00	4	13.79
13.	Access to a gym/exercise classes/PT	7	11.86	0	0.00	7	24.14
14.	Preventative approach rather than crisis management	6	10.17	4	13.33	2	6.90
15.	Mentoring	6	10.17	4	13.33	2	6.90
16.	Informal wellbeing initiatives (e.g. social catch ups)	6	10.17	3	10.00	3	10.34

judicial officers sourcing the most enjoyment from the role are those who prioritise their own wellbeing. These are now discussed in turn.

*Theme 1: Workload is an issue for almost everyone*

The first question on the interview schedule was ‘What do you see as being the major sources of stress in the judicial role?’. More than any other source of stress, judicial officers identified workload. It was very often the first and only response they gave to the opening interview question. The language judicial officers used to describe their workload collectively conveys a picture of an exhausted and overburdened justice system, with adjectives such as ‘oppressive’, ‘horrendous’, ‘relentless’, ‘hideous’, ‘unsustainable’, ‘overwhelming’ and ‘sausage factory’ among the emotive descriptors used. While workload was an issue throughout the court hierarchy, it was experienced and

described differently at different levels within the system.

*Workload stress for magistrates.* Magistrates spoke of ‘punishing’ daily lists, frequently involving upwards of 70 cases, leaving them too busy to properly engage with the people in their courtrooms, worried that they are making errors or missing important dynamics between the parties, and conscious of a creeping cynicism and loss of meaning. As one male magistrate described:

*[I]n a busy suburban court the workloads are – are enormous. Family violence, for example – you know we can have anywhere between 60 and 70 cases per day – which is just absurd. And so you always want to achieve I think a level of satisfaction in your job where you feel that people who come to court have been heard, and their cases have been dealt with fairly and justly, rather than being forced into a situation where you have to tick and flick. . . . [But] the way in which many of our lists are run in this court makes our*

*job perfunctory, tedious and it gets to a point where . . . it doesn't become rewarding after a period of time. It's difficult to remain engaged in the process, simply because of the sheer volume of the work that we're required to get through.*

A female coroner described her workload similarly:

*I actually love the work, but it's an enormous file load and in our jurisdiction we hold onto them from the moment that someone dies until maybe the end when you do a finding or an inquest. And I mean that can take anywhere between 6 months or 5 years depending on the length of the investigation. We have [several hundred] cases each a year and you feel like you're getting on top of it and then just a new wave of files comes across your desk and it's just this overwhelming sense of there's never any break.*

A number of judicial officers from the lower courts also identified that it is not high workload per se, but the constancy and chronicity of their work overload – the lack of ebb and flow in workload pressure, and the inability to control their workflow – coupled with the emotional and intellectual intensity of the work, that creates unacceptable stress. As one female magistrate put it:

*[It's like] shovelling snow and it's still snowing. And its . . . out of your control, even if you're feeling tired or sick or whatever. . . . In a normal job at our level you would be working long hours but, given the nature of court work, you have to be fit – brain fit and emotionally fit – to do that work. And if you're tired because you're trying to squeeze in all this stuff, the court work then becomes difficult.*

Another succinctly stated that 'it is unsustainable to be working in high degrees of stress and in a high-pressure environment on a regular basis'.

In the absence of downtime and 'breathing space' within their working weeks, a number of magistrates have resorted to purchasing

extra leave as a way of coping with their workload stress, something they simultaneously depended upon and resented:

*I ended up [purchasing extra leave] which I hadn't done before, and which really irritates me that we have to take unpaid leave so we can survive in the job. It's not seen as with the higher courts where you get sabbatical, you get longer leave. . . . There's been an increase in the number of people applying [to purchase extra leave], I think that's significant.*

*Workload stress for judges.* Judges spoke differently about their workload stress. Rather than describing frantic and time-pressured courtroom environments, intermediate court judges emphasised the challenges of juggling trial work, judgment writing, and hearing new and urgent matters. There was a sense of a less intense pace, but a similarly unabating work pressure involving more out-of-court work. One civil judge from an intermediate court said:

*Trying to keep up with the constant work rate, the treadmill that we're on with civil is quite hard. . . . So, when you are busy and trying to complete a trial and trying to write a judgment for a matter then to have three or four more matters in the reserve list, which nearly all good judges want to try to see as exhausted by the end of the day, it's a stressor.*

A criminal trial judge said:

*[T]here's always work, it just doesn't seem to stop, ever. And you never see it, particularly in crime, it's never 'oh yeah have a day out of court', you never do. I think some do, but I don't feel very comfortable doing that, I feel that you've got to just keep going and going and going and going and going. And you never really get a chance to stop.*

In the superior courts, judges' spoke of needing to work extremely hard for extremely long hours to discharge their court duties in long and complex trials and stay on top of

reserve decisions. Many mentioned working on reserve judgments through their Christmas and holiday leave, so as not return to an unmanageable backlog. Some felt they had no capacity to control or influence their workload:

*The relentlessness of what we do. . . . [Y]ou finish one case, you have a reserve judgment and the next one is waiting. And you know that this is going to be the pattern for a decade – or whatever it might be. So that’s a source of stress; feeling that you can’t get a break. Knowing that it is going to be this intensity for the entire duration of your time here. You don’t get to take your foot off the accelerator at any point. You don’t go part-time. You don’t wind down into retirement . . . and the business about the relentlessness is the lack of control over your work. [In previous roles] I controlled the work and I could delegate work out. We’re unable to do that in this role. . . . We just finished a jury trial last week – we ran for 14 days. . . . I was in at 5 in the morning and finishing at 10 at night because of the rulings. . . . I worked on average for the two weeks 70–80 hours.*

Others spoke about the oppressive volume of work generated by mega-litigation – describing commercial trials that run for many months, involving multiple parties, dozens of witnesses, and thousands of documents, leading to judgments of hundreds of pages. After months of working weekends, one commercial judge reflected how the ‘sheer grind’ drove him to burnout:

*I was just getting more and more tired, which you didn’t seem to be able to cure by taking time off and I just got more and more snappy and cynical. I suppose I went through a few stages . . . and [member of court staff] was becoming very aware it was getting worse and worse. And he told me later, when I sort of came back in a better state, and he said ‘I was really worried about you’.*

He went on to explain that taking time for self-care during that trial did not feel like a viable solution to his stress:

*[P]eople said could you have paced yourself and the answer is you can’t because you’ve got this huge burden you’re carrying. And you just want to get out from under it as soon as you possibly can, so I worked weekend after weekend, and so it goes on.*

By contrast, a small number of judges felt that the high workload was manageable because of collegial and leadership support during the very busy times:

*[T]he release valve is there – if you want to release it you can. . . . It’s a give and take environment. And I like to try and think that I’m doing my fair share, as I’m sure most if not all of us do. So, if you’re seen to be doing that – then if you put your hand and say ‘look I need some help’ – then they realise that you need some help. And it’s forthcoming.*

In summary, throughout the court system almost all judicial officers described feeling overwhelmed by their workloads. This was the most obvious and urgent message radiating from the data. Magistrates felt ‘crushed’ by their heavy daily lists. Intermediate court judges felt ‘beleaguered’ by the unending pressure to burn through trials and written reasons. Superior court judges felt ‘trapped’ by the scale and magnitude of long and complex trials, and the ceaseless build-up of reserve judgments. Almost nobody described their workload as appropriate, sustainable or ‘about right’. However, there was also a strong theme of being habituated to hard work from many years in legal practice prior to appointment.

#### *Theme 2: The sources of stress are increasing*

A majority of judicial officers expressed the view that over time their work role has become significantly more stressful. This view was shared by longer serving judicial officers, who had directly experienced the increase in pressure over their 20+ years in office, and those appointed more recently, who sensed that the

job they are performing is manifestly more intense than the judicial role they witnessed when they were younger practitioners appearing in court. There were two principal and interlinked sub-themes to this observation: (a) increasing work demands; and (b) increasing external pressures.

*Increasing work demands.* Many judicial officers, but particularly magistrates, spoke of significantly increased workloads, due in part to population growth, but also to higher rates of police charging brought about by a recent 'law and order drive' within State politics. Several judicial officers said that governments on both sides of politics have invested heavily in police to show they are tough on crime, but that commensurate investment in courts is not politically expedient. As one male magistrate explained:

*We're the last man standing. Police get 500 extra coppers on the road – what are they going to do, what, make paper planes? Of course they're going to be doing their job, if they do their job more people are arrested. Where do you think they're going to go? – they're going to make their way to a courthouse. You put 500 coppers onto the road, that is going to have an instant impact upon my lists. . . . [The] government must understand that there is a cause and there is an effect, and the effect is ultimately on the judicial system. But because we can't make noise, because there is no votes in us, we're forever the poor cousin, and that's the problem.*

Many magistrates also reflected that recent legislative changes expanding the jurisdiction of the lower courts have led not only to higher workloads, but higher workloads of significantly more complex and serious cases:

*[T]here's more and more things being pushed into our court – nothing's being pushed out of our court. . . . [N]ow, rather than saying or having a table that says this is what the magistrates can do in terms of the final determination, you'd be*

*better off having a schedule that just said what can't they do, and you could count on one hand the things we couldn't finalise. Homicide, manslaughter, serious, serious sexual offences, that's about it. Everything else we do.*

Some expressed fear about the logical end point of this trend, both in terms of the delivery of justice and judicial wellbeing:

*Most of my colleagues are very frustrated about the fact that you're still looking at the clock going 'oh quick!'. How do you do things fairly? . . . There'll come a point where you just cannot keep pushing all this work into this court and expecting it in terms of time delays and efficiencies. Because you've got to get the quality, and the real risk is that sausage factory will just get worse – and for us I think as judicial officers that will really undermine what we do.*

In the higher courts, judges also spoke of increasing workloads and case complexity, but they attributed it to other factors, including the 'proliferation of electronic documentation' multiplying the written material coming before the court, and requiring judges to master sophisticated new technology. As one commercial judge said:

*The cases are becoming ever more complex. Documentary – the relevant documentary volume is increasing exponentially. It can really only be handled electronically, which I think causes stress for some judges who are not able, who aren't versed in that, and are nearing the end of the careers and don't really want to be.*

Judges also identified the pace of legislative change as another growing source of stress. Particularly in certain areas, such as sexual offences and civil procedure, they spoke about investing time and energy mastering a new statutory regime, only to have it change again. One judge said:



*The legislative change has been huge for us, it is unrelenting, it's got to the stage that it's almost unacceptable, that they can't continually just change things for basically political reasons, to be seen to be doing something, which impacts on us in a way where we never take a breath. It's like using a stair climber and we just never get to get off. So that's been really difficult.*

Her colleague reflected that the 'movements away from common law concepts' through legislative intervention has added significantly to the cognitive load of judges, as, in her words 'I can't any longer rely on what my instincts would be about what the law ought to be able to do in this particular circumstance'. Judges and magistrates also spoke of an increased expectation that they take on extra-curial duties – for example: court management, law reform, community engagement, judicial education – often without any reduction in their in-court responsibilities, as adding to the escalating pressure of the role.

*Increasing external pressures.* Alongside the increasing daily demands of the work, judicial officers across the jurisdictions spoke of a climate of growing pressures that were at times demonstrated by hostile attacks towards the courts – especially on the part of the tabloid media, which was seen as running concerted campaigns to frame the judiciary as 'out of touch' and 'soft on crime'. Judicial officers were quick to say that media scrutiny is critical to democracy, and welcomed by the courts, but pointed to a concerning and unprecedented trend of 'media misrepresentation'. Judges and magistrates spoke of being 'completely vilified' by the media over bail decisions and sentences, based on inaccurate reporting of the facts of the case, or an incomplete understanding of the law. One judge stated that: 'there is no doubt that the environment in which we're operating now, from a media point of view, is more hostile than I can remember in my career – and I'm not alone in that'. Another observed:

*I think that we live in times where the public clamour for increased sentences as expressed through the [tabloid media] in a very populist and uninformed manner, is a source of stress. I hear judges say on occasions after a jury verdict: 'he got acquitted, he shouldn't have been acquitted, but gee I'm glad it's a jury verdict, it won't be reported in the [tabloid media] and it won't go to the Court of Appeal'.*

The impact of this was felt keenly, especially in the absence of an appropriate forum for judicial officers to respond to criticism and correct misrepresentation. Judicial officers expressed concern that this increasingly critical and ill-informed media coverage was undermining public understanding and confidence in the justice system and was emblematic of a more general trend of reduced respect for and faith in public institutions. There were also many comments about the executive arm of government no longer defending and sometimes actively attacking the judiciary for political purposes:

*The haranguing in the media, the vigilantism in the community, the obsession with punishment and not circumstances of the offender, the complete ignorance about sentencing and what goes on, the abdication by the Attorney of his role to protect and defend the judiciary – these all come together at a really bad time . . . it doesn't help that our own parliamentarians wanted to take free kicks and basically be slanging off at judicial officers, I think that's very corrosive of what would ordinarily be, you'd think, a time honoured respect for the fact that, even if you didn't like decisions that judge has made, you accepted that they were making them in good faith on the basis of material before them.*

In summary, judicial officers considered that, due to a combination of increasing work demands and external hostility, the sources of stress in judicial work have been steadily rising and showing no signs of slowing. There was an overall impression of mounting

organisational and societal pressures without commensurate increased resources to meet them.

*Theme 3: Stressors of injustice are felt most keenly*

The third, and possibly most surprising, theme arising from the interviews was that, of all the sources of stress in judicial work, it was stress associated with *injustice* that was felt most keenly. There were two distinct elements to this theme: (a) the stress of witnessing injustice in the courtroom; and (b) the stress associated with personal feelings of unfairness or inequity. Other stressors, such as case content and the challenges of decision-making, were recognised as significant demands, but it was stressors of injustice that carried a particular ‘*sting*’ and ‘*distress*’.

*Witnessing injustice in the courtroom*

Judicial officers spoke of the pain of being unable to prevent injustice from unfolding in their courtrooms, for a range of systemic and structural reasons, in particular: (a) the overloaded court system; (b) the inadequacy of legal remedies and/or social supports; and (c) poor advocacy.

*Overloaded court system.* Linked to Themes 1 and 2, magistrates frequently spoke of being forced to work through cases too quickly to give adequate attention to the subtleties of each case or to the experience of the individuals coming before them. This issue was particularly pronounced in matters involving family violence, where the interpersonal dynamics are complex and the consequences of error are potentially devastating. One female magistrate spoke of intervention order lists, which once involved around seven cases a day, now often containing 65 cases:

*It was 65 before Christmas and you just can't do it. Like you can do it, but you do it so fast and there's such contempt for people's ability to comprehend what's*

*happening to them, it's appalling. And that creates a stress, you know, having to compromise what you think is the right way of doing the job is extremely stressful.*

Magistrates also spoke of the inevitable injustice that would flow if they attempted to establish healthy and sustainable boundaries around their court hours, which are traditionally from 10am to 4 pm, allowing time either side for preparation and decision writing:

*[T]he court determines how many cases go into the list, and how late you're going to sit – well I mean you can just determine to rise, but if . . . you care about the people who come before you, if you've had a family violence intervention order application and the mother has been waiting all day with her child, and it's 4.30, then I'm going to sit 'til 5 o'clock because I don't want her to leave without a result – it's probably not going to be my best day's work, but she will get a result. But that is the reality, and that's stressful . . . that the legitimate expectations of people who come before the court to have a safe justice response, is something they're entitled to, and I have struggled, particularly in more recent years, to think that we can deliver that and that has worried me quite significantly.*

Similarly, magistrates expressed distress at the impact of court delays on people's lives:

*[P]eople [are] having to wait months and months and months – and as I said to you earlier, at the moment I have to adjourn an hour plea for an hour to July/August of next year. Now that means, not so much the accused, but you've also got a victim that's now waiting, and if you didn't care it wouldn't matter, but you do care, you do care – otherwise you wouldn't be doing the job, or doing the job properly. That's stressful.*

Magistrates spoke of the ‘trilemma of injustice’ they faced, driven by overloaded daily lists, which forced a bitter choice between: (a) rushing through cases at a pace that threatens the quality of their decisions and the parties’

experience of being heard; (b) working at a manageable pace but regularly adjourning unheard matters off to unacceptably distant future dates; or (c) consistently sitting well beyond the 'usual' court hours of 10am to 4pm and sacrificing their own wellbeing in the process. In most cases, the stress of contributing to the injustice inherent in Options (a) and (b) drove magistrates to Option (c), or to some combination in which they felt they were neither looking after themselves nor looking after the parties coming before them.

#### *Inadequacy of law and social supports.*

Another aspect of witnessing injustice, which was raised by both magistrates and judges, was the perception of being unable to deliver a just outcome due to inflexibilities in the law or to deficiencies in the kinds of supports and services available in the community. Judicial officers pointed to an inadequacy of sentencing options undermining offender rehabilitation and perpetuating a 'revolving door' within the courts. As one magistrate said:

*Rather than expanding your sentencing options, they're narrowed. [Additional options for orders have] been heralded by most practitioners as being the panacea for all – it's not, because corrections aren't funded, and that's the frustration. So, you're seeing these people come in, go out, set your time watch and come back again. . . . [W]e have a hostile community which says 'oh people keep on reoffending', yeah, and blame us. But the problem is you don't have the tools made available to you, and jail is not the answer.*

Understanding the complex causes of offending, and witnessing the same offenders return, led to feelings of 'futility' and 'meaningless[ness]' for some. One magistrate described it this way:

*The work is inherently disturbing, because you're dealing with offending and impact of offending on victims, and so there's that. But I think it's the system, so not being able to properly address those*

*issues that I think is the most stressful. And then that kind of sense that what you're doing is completely ineffectual or even harmful.*

She went on to describe a recent case of a highly vulnerable woman with complex trauma and addiction problems, who had been before the court on a number of occasions, but had become impossible to engage in community corrections programmes due to homelessness:

*[T]hat was frustrating and stressful because I could see if we had housing for her and if that was integrated into our corrections order then we could maybe try to work with her. . . . I didn't want to have to jail her but the reason why I felt I was having to is because the rest of the system was not [functioning] – so you're working with these very difficult cases where there isn't really the things there to fix what you need to fix a lot of the time.*

These concerns about the court's inefficacy in 'addressing the causes of the criminality' were also expressed by judges in the intermediate and superior courts. One judge spoke of a case involving a cognitively impaired woman who required 24-hour care but was unable to access it:

*I feel very strongly about that category of offender and I feel very frustrated that I haven't been able, thus far, and I'm less involved than those acting for her, to find appropriate levels of support and particularly accommodation. . . . If you've got such a vulnerable offender locked up for so long, you have great injustice resulting, and I don't think there's an easy way of overcoming it because the answer is not to be found within the court so much as extrinsic to the court, meaning government and various departments accepting responsibility for people who can't fend for themselves.*

A superior court judge mentioned these same issues in relation to bail decisions, especially with young offenders:

*[W]e get these bail applications, young people, and there's not much rehabilitation – you can't actually deal on a bail application with all of the issues that these young people have. We've got the blunt instrument which is bail or no bail. . . . [And] the requirements of the Act philosophically . . . don't really hang together. I think when you read bail decisions you can see that judges are turning themselves inside out to try and make it work as a piece of legislation. . . . [Q]uite often they're very vulnerable people in front of you and locking them up is just going to exacerbate and make things far worse, and yet as Supreme Court judges handling a bail application we've got virtually no tools to do anything.*

*Poor advocacy.* A final aspect of witnessing injustice in the courtroom, which was identified principally by judges in the intermediate and superior courts, was injustice flowing from poor advocacy or ill-prepared counsel. Judges spoke of the pressure poor advocacy puts on their ability to ensure a fair trial and the additional work it generates for the court and the clients. A commercial judge articulated what he would have liked to have said to counsel in a case that was being held up in interlocutory skirmishes:

*'[W]hy can't you talk to each other, stop writing silly letters to each other reserving your rights and all this sort of stuff, ships passing in the night. Engage with the issues, stop playing games'. And that's frustrating and it's stressful, particularly if you take the view that we've got some responsibility to the community to try and run a cost-effective civil justice system. And you know people are suffering and the economy is suffering as a result of this sort of behaviour, and the more we make the commercial economy unnecessarily costly the more the whole community suffers.*

At the extreme end, when the counsel's tactics were perceived to be either deliberately obfuscatory or underhanded, judges reported

experiencing intense emotional reactions. One criminal judge admitted to completely losing his temper when a defence barrister, apparently deliberately, led evidence that came perilously close to triggering a retrial:

*That's the only time I've ever sworn in court. And I could hardly speak I was so angry because all I could see was a retrial and I had to do it all over again with these women going through it again. . . . I went back out; I could still hardly speak. . . . I didn't know where I was going to go, so I just had the jury go home for the weekend, went away, calmed down over the weekend and came back on Monday and fixed it.*

*Personal feelings of unfairness or inequity*  
Echoing the anger and grief judicial officers expressed at not seeing justice done in their courtrooms was the frustration and hurt they voiced when the demands of the role were accompanied by personal feelings of grievance or inequity – when they felt that they, their colleagues or their staff had been treated unfairly. There were many examples of this, including perceptions of: (a) disproportionate focus on throughput; (b) inequitable work distribution; (c) a lack of supportive and transparent leadership; and (d) unfair treatment by appellate courts.

*Disproportionate focus on throughput.* Magistrates, and to a lesser extent intermediate judges, spoke of the administrative arm of the court valuing only 'throughput', leading to a perception that the only way to be a valued member of the court is to be quick, not necessarily careful. For some, this was interpreted as deeply unfair and flowing from a lack of understanding and respect, on the part of court administration, for the judicial function. One magistrate described feeling unable to work on a complicated written decision without persistent interruption from registry asking when she would be returning to court:

*I think increasingly, depending on where you are, [there is a] lack of respect by the registry staff for what you do, which then translates to a lack of support. . . . [A] couple of times I pulled my phone out of the wall because I felt, I just, 'don't ring me, I'll tell you when I think I'm done'. Because I think we're entitled to do that when we are having difficulty making decisions. And I think there was an expectation we can just make decisions, it doesn't matter, so long as you make a decision. And that's really frustrating.*

A judge described the organisational emphasis on the quantity, and not the quality, of judicial decisions this way:

*In a subtle way the powers that be are interested in throughput and management of cases, not necessarily the results, so there's a bit of a conflict with, well we turn into a sausage factory. . . . [A]s a judge, the pressure of getting it through and getting it done properly can cause tension.*

One magistrate, who identified as one of the quick ones, spoke of feeling both valued and punished for his speed:

*[Y]ou find yourself, because you're an efficient magistrate, put in – in huge lists every day, because of your efficiency you feel that you're being persecuted – or you're taken advantage of. . . . And so, whilst that might be a badge of honour for a period of time – perhaps early on in your judicial career – it does ultimately wear you down.*

**Inequitable work distribution.** Magistrates and judges recognised the inherent tension between timeliness and quality of justice, and the need to find an appropriate balance – both individually and organisationally. In discussing these competing demands, many judicial officers spoke hotly about a perceived inequity in work ethic and work allocation within their courts. This was a striking subtheme from all levels of the court hierarchy, and was

frequently accompanied by the some of the strongest displays of emotion in the interviews. Judicial officers spoke of 'anger' and 'resentment' towards 'lazy' colleagues, who 'waggle their way through' easier and less complex matters, leaving their more diligent colleagues to do the 'more heavy lifting, which generally involves sitting longer and harder'. It was apparent that workload stress – an issue for almost everyone, as discussed in Theme 1 – was most acute when there was a sense that it was unfairly distributed. A civil judge put it this way:

*[T]here is often a perception amongst some judges that they're really carrying the can for other judges. I think in any organisation you get people who work quickly and efficiently and you get the ones who don't. But it is a real drain on the spirit of the place if you get judges who, for whatever reason, don't take cases and don't get through the work. . . . When you're going a million miles an hour and you're trying to get stuff done and you try and take the next case so that the parties don't have to go away not being reached, to find judges who aren't putting their oar in the water is dispiriting and difficult.*

In the superior courts, one judge attributed unequal judicial output not to laziness, but perfectionism – judges working hard, but not smart:

*Those who can do the job efficiently are rewarded with more work, or punished with more work, whichever way you put it. Those who can't, seem to get away with inefficient work habits, and surprisingly enough they're the ones who are the most stressed in my view, or appear to be. Because if they've got half a conscience, they realise that they're not contributing. But they just can't let go. I said this up front, I think perfectionism is the greatest cause of stress, and even when it's tolerated, and it is tolerated I think too much, it causes stress both for the perfectionist and for the others who are carrying the load.*

Judicial officers looked to their Heads of Jurisdiction to manage these kinds of inequities, while also acknowledging what an impossible management task it is, given judicial officers are appointed, not employed, and the usual levers for managing under-performance are not available: *'it's hard because, I guess, the Head of any jurisdiction is the first amongst equals and, with the separation of powers and the independence of each judicial officer, that in itself creates problems'*.

*Lack of supportive and transparent leadership.* At times, however, judicial officers felt that their experiences of unfairness were due not only to their Head of Jurisdiction's inability to manage imbalances in judicial performance, but more directly to leadership style. People spoke of *'no transparency in decision-making'* and *'excessive secrecy'* concerning matters such as work location, extended sitting hours or appointment to leadership roles; *'not being supported'* in their ideas for innovation and reform; and a lack of *'recognition, or just a bit of gratitude'* for the hard work they do. Many judicial officers highlighted the fact that Heads of Jurisdiction are generally appointed based on *'judicial skills rather than management skills'* and then face the daunting task of leading a flat structure of highly skilled, independent judicial officers, which they have no power to shape through either recruitment or dismissal. As one judicial officer observed:

*[There's a] lack of management skill in the judiciary. It's not a criticism of people personally, but structurally, if you think about it, they're lawyers coming into management roles and policy development roles and operational roles that don't have any skill or background or experience or training in that, and they just don't know how to do it. They don't know what they don't know. They're well meaning, they work hard, they're visionary, some of them are natural leaders, but others are not. And you get somebody who's not a natural leader and*

*lacking in any management experience, it's just not good. So, I think that's the key issue. When you get poor management, you get politics, you get pettiness and dysfunction, dysfunctional managers, bullies, control freaks who don't know how to create a team and do everything themselves which makes everyone else unhappy.*

Judicial officers in leadership positions, especially those appointed from the Bar where they neither managed others nor experienced being managed, made the same observation:

*[M]ost people out there who are working in a management type [role] and going up the tree have had to deal with that as they go along, I've just had the luxury of not having to really confront that until now. But I'm also dealing with that in a particularly unique environment, the judicial environment, and so I don't have the luxury of a traditional CEO who has absolute power over people's careers and jobs. . . . [I]f I've got a problem person, judge for example, unlike a CEO, I just can't suspend them or discipline them or say that you're no good for the job or, unless you improve, you're out – that can't happen. Or if you speak to me like that again you'll be given notice. So that's a very complex work environment.*

It is important to include in this subtheme that judicial leaders themselves spoke of confronting considerable stress in their roles, and many expressed that their leadership responsibilities, especially managing under-performance of colleagues, were their greatest sources of stress at work.

*Unfair treatment by appellate courts.* Another prominent feature of judicial work that ignited personal feelings of grievance or unfairness was the experience of being overturned on appeal. As one of the very few sources of feedback in judicial work, and one that is also a public process in which they have no right of reply, appellate review was identified by many magistrates and trial judges as the object of some considerable fixation and even

fear. As one judge said: *'you have the feeling that the Court of Appeal is breathing down your neck all the time'*. Judicial officers described the feeling of being overturned in brutal terms, such as *'being kicked in the head'* or *'slap[ped] in the face'* or *'get[ting] a bit of a bucketing'*. Many spoke of it as among their most stressful experiences in office, including this superior court trial judge who recalled receiving the appellate decision by email as he was heading off on holiday:

*I was reading it at the airport and I was so cross. I got really sort of – I rang up [someone] – who I completely trust, and said 'I'll speak to you like I'll speak to no one else' and I just let loose. . . . And it probably took me, I don't know – probably a day or so before I could sort of calm down. . . . I've heard of people that just refuse to speak to the Court of Appeal judges in relation to this issue for quite some time. Or go and speak to them and tell them in no uncertain terms what they think of them.*

A common comment was that it is not so much *'getting rolled'* on appeal in itself, as it is the sometimes *'unnecessarily critical'* tone and language of appellate decisions, that leads to *'immense stress'* and feelings of *'injustice'*:

*[T]he Court of Appeal's a source of stress . . . they can be extraordinarily rude and very undermining, and I don't think they have any concept of how hard people take it. Because they're doing such a hard job, you know, trying to do their best every day, and so when something goes pear shaped, which inevitably it will, you know, 2 or 3 percent or 5 percent of the time, something will happen, and you'll make a few mistakes, that there should be no understanding from the court that is in our system – forget about the public, forget about journalists – they couldn't just take it upon themselves to simply say 'look you know with the greatest of respect you just got this wrong'. It's all you need to hear, you got this wrong and this is how to do it right . . . you don't need to be humiliated and you don't need to be berated, but it's particularly I think*

*noxious for people's morale. Because most of the time it ignores the other 92% of the time where they've been killing themselves to get it right.*

Compounding the feelings of unfairness for some magistrates and trial judges, was the sense of being harshly critiqued by appellate judges who have either no specific experience in the relevant area of law, or no direct understanding of what it is like to make decisions under time-pressured trial conditions:

*It's very disheartening, stressful and demotivating and all the rest of it, so you've then got to pull yourself up by your bootstraps to fulfil your judicial oath and to maintain your intellectual integrity, and do the best job you can, knowing that it might just end up being chucked aside willy nilly by people who are really not experienced commercial judges, and not experienced in running trials.*

Interestingly, this grievance was also voiced by some appellate judges:

*[Y]ou're in a rarefied atmosphere in the Court of Appeal. You're reviewing somebody in the trial division, who might have made a decision – an interlocutory decision on a very busy day, you know on a directions day . . . and ultimately it's not about the substantive rights of the parties – and I find that some of my colleagues, who haven't been trial division judges, want to look at it with a fine tooth comb, when really it just doesn't justify that. And they want to be critical of how a judge has gone about it when they haven't stood in the judge's shoes. I find that the most stressful thing.*

Overwhelmingly, people spoke of appellate review as a source of stress, but there were some who saw it differently – not as a stressor, but rather as a comfort:

*I've certainly been overturned, that doesn't worry me at all, and in fact that's one of the reassuring things that when you get things wrong, you hope that when you get things wrong, they are the cases that*

*are appealed, and are fixed up by judicial officers who have far more time to spend on cases.*

Personal feelings of grievance or unfairness were also activated in relation to media misrepresentation, politically expedient criticism of the judiciary (mentioned in Theme 2), and disparity in judicial terms and conditions across the court hierarchy. These, together with witnessing injustice unfold in the courtroom, were the aspects of judicial work that appeared to affect judicial officers most painfully.

*Stressors of injustice versus stressors of judging: a differential impact.* This is not to say that other aspects of judicial work, such as exposure to distressing case content and making decisions that significantly impact people's lives, were not described as stressful. Judicial officers throughout the system, especially those sitting in crime, shared shocking and heartbreaking stories of the cases they had heard, involving child abuse, sexual violence, bestiality and familial homicide. They spoke of the images that *'penetrated [the] heart'* and *'still live in [their] minds'*, the *'emotional consequences of the cases'* they had dealt with, the *'ramifications'* for how they relate to their own children or grandchildren, becoming *'hypervigilant about walking down the street'*, and the personal *'wear and tear'* of making grim and weighty decisions every day for years on end. They disclosed *'hat[ing] sentencing'* and *'agonising'* over custodial decisions because the *'responsibility is just so high'*. However, it was clear these aspects of the work did not upset, distress or aggrieve them to the same degree as the *things that felt wrong* – the stressors of injustice. The differential impact between the stressors of the work and the stressors of injustice was encapsulated in this statement by one senior magistrate:

*If you could walk into court and have a properly prepared case with good counsel and everything ran smoothly – that's not a*

*stress. Making a decision at the end of the day or after hearing a case, that's not stressful. What's stressful is that nothing seems to work properly, and you spend most of your time teaching people or not having your expectations met and feeling like the best justice isn't being provided to the people who are appearing before you.*

In summary, when judicial work confronted judges and magistrates with experiences of injustice – either witnessing injustice unfold in the courtroom or being personally affected by perceived unfairness or inequity – this was when the stress of the role most 'got to' them. Notwithstanding the daily exposure to *'the misery of life'* and *'the most horrific human behaviour'* – despite the *'sleepless nights'* endured as they attempt to assimilate the *'super human'* function of passing judgment amidst the *'tragedy'* and *'human drama'* of the cases that come before them – it was the *stressors of injustice* that judicial officers emphasised when given the opportunity to discuss the personal challenges of the judicial role.

*Theme 4: There remains a cultural reluctance to discuss stress and seek support*

Within the confidential environment of the interviews, judicial officers readily discussed the experience and impact of stress in their roles. However, many expressed apprehension about engaging in a more open conversation about judicial stress, due to fears that it would be perceived as a weakness. There were five elements to this theme: (a) stigmatisation of stress within legal culture; (b) stigmatisation leading to isolation; (c) equating stress with impairment; (d) combatting stigma with mandatory wellbeing participation; and (e) the hope for cultural change.

*Stigmatisation of stress within legal culture.*

Most attributed their reluctance to the traditional stigmatisation of stress and mental ill-health within the legal profession – and the belief that their colleagues, if not they



themselves, would regard the topic of judicial wellbeing as 'nambi pambi'. One superior court judge described the barriers to judges like himself participating in any organised judicial wellbeing initiative:

*Judges are lawyers, and they're all traditionally conservative – they're all like me or worse. They don't really believe in bearing their souls too often, and wouldn't want to be involved because they might have to reveal something about themselves that they would perceive as being a weakness. I think that's the biggest [barrier] – particularly for men. I think women are far more amenable because they're just better equipped emotionally than men. But men of my age, or thereabouts, I think still struggle with the concept of being seen to be weak. Therefore, don't want to reveal things.*

An intermediate court judge suggested that the cultural aversion to 'opening up' was rooted in the adversarial nature of legal work, which compels lawyers to present as invulnerable – to opponents, to colleagues, and to themselves:

*[B]y the stage you become a judge, I think, [there] is an ingrained, deeply held kind of need to make sure that you look like you're competent and confident . . . to your colleagues or other barristers or whoever it is. So, it's not just ego in the sense that I want to not be showing any weak[ness] – not showing any weakness is, in a sense, a bit what barristers have to do, and a lot of people, or even lawyers, because it's a combative sort of environment. And so you're used to having to be tough. . . . It's not easy to deal with, and especially vulnerability and an analysis of thinking about why you're vulnerable, and self-analysis isn't, I think, a particularly strong suit.*

*Stigmatisation leading to isolation.* There were several poignant examples when this culture of shame and stigma prevented judicial officers who were in acute psychological distress from seeking support. One magistrate

described a time early in her judicial career when the pressures of a regional assignment brought her close to breakdown, but she felt the need to hide her distress, and its systemic drivers, at work:

*[I]t'd been because of unsustainable workloads. And saying they're unsustainable workloads is just, you know, when I look at the volume of work we're expected to do and the nature and the mix and stuff, [it was] entirely guaranteed I was going to end up in that position. But at the time I felt I couldn't say anything because I'd be perceived as weak or not playing the game, or not capable or just not managing. . . . I certainly was not prepared to talk to anyone in senior management about the issues. Absolutely not. Because that would be professional suicide. I'd be damaged goods. . . . [Y]ou've got to keep going and pretend everything's okay.*

It was apparent that the perceived risks of sharing struggles with their colleagues led some judges to experiences of isolation and shame, which compounded the already painful feelings of pressure and of feeling overwhelmed. One judge told of a two-year period in which he felt the demands of the role had engulfed him and he had no one safe to talk to outside his marriage:

*The only person I've said this to apart from you is my wife. I've not said it to any of my peers here and I wouldn't because I've got a sense of pride and I'm not going to admit that it was defeating me, but it was.*

Without feeling safe to be authentic with other judges about his state of mind, he found himself alone and desperate:

*You can't go and tell someone 'I'm running red hot and I've run out of steam and I'm at breaking point'. You can't, you don't want your next-door neighbour or someone else to find out, and so you just sort of go on and you start to grind down and you become less effective. And, I*

*mean, I lived in a little bit of a fog in those two years that I hated this job. And I don't use the word 'hate' carelessly, a small 'h' hate, but I started to hate it for what it had turned me into and how I was – in fact, I think my hate was probably more that I didn't know how to cope with it. I didn't know how to work it within the broader framework of my life. So, 'hating the job' was probably not the correct way of putting it, I think it was rather more hating – how do I handle all of this?*

By contrast, a magistrate working in the regions shared a time when the level of her distress overwhelmed her capacity and will to hide it, and she found herself expressing the full force of her desperation to management, without regard for the consequences:

*I would have been maybe three or four years into the job and my workload increased exponentially. I was driving one day from [regional town] and I was crying about having to go to court and make a decision, and I thought this is not on. . . . I drove to [the city], I went and saw [a senior magistrate]. . . . I walked into his office and I reckon I said 17 [expletives] in two minutes. I said 'I can't [expletive] do this job if this is how this job has to be, I can't do it, it's killing me'. Like, I'd never gone off in the workplace before, thankfully it was just one-on-one. I said to him 'I've never cried on the way to work before in my life and I'm crying on the way to work. This is too much, whatever it is, it's too much'.*

Thankfully, in her case, this was met with compassion and concern, and an acknowledgement that her workload had been unreasonably high. Adjustments were made, and she recovered.

*Equating stress with impairment.* Sitting beneath both the reluctance to discuss stress and the hesitancy to seek support appeared to be an assumption that stress implies impairment, that for a judicial officer to admit to feeling stressed, overwhelmed or impacted by the work would mark them as unfit for office. A

number recognised, however, that it is not stress *per se*, but rather unacknowledged and unmanaged stress, that has the potential to be problematic. From this viewpoint, discussing stress and seeking support was seen as an obligation:

*[T]o me, judges who aren't doing their job well, there is some underlying cause – well, a duty to get themselves looked at and to treat it. Because they are in fact deciding people's rights on a daily basis, and if they're not functioning in a proper mental state then they shouldn't be sitting. It doesn't mean you can't – you know, there's lots of judges around here who've got depression from time to time in their life, doesn't mean you can't do your job . . . but if they're, if it's known then and they've got some support then they might be able to handle it a bit better.*

*Combatting stigma with mandatory well-being participation.* Regarding potential systemic responses to judicial stress, there were numerous comments that *'those who need [wellbeing education and support] most, of course, will be the ones who will never attend'*. Many judicial officers, especially the women, argued that the only way to encourage engagement with any court-led wellbeing initiative would be for Heads of Jurisdiction to make it *mandatory*, so as to neutralise any internalised stigma associated with choosing to engage, and to ensure that personal insight is not a prerequisite to accessing information and support. A common wish was for a *'non-stigmatised', 'structured', 'normalised'* psychological debriefing programme, which would require all judicial officers to attend regular<sup>1</sup> sessions with an appropriate mental health professional throughout the year, needed or not. One magistrate said:

*I think it's an occupational health and safety issue for the Court. . . . It's a stressful environment. People bring their own stresses from home into that environment, and unless we kind of provide a safe place for that to be dealt*

with, there are going to be repercussions. . . . I just think some of my colleagues don't recognise that – and I think the impact that their undealt with stress has on participants is huge. And I just think we need to acknowledge it and we need to say 'look, you know, there is nothing wrong with [stress], that's a normal human response, but this is some strategies because we don't need to pass on the trauma to other people that are traumatised already'. So that's why I think mandatory – I think people who perhaps need it more won't go if it's voluntary.

*The hope for cultural change.* While the existence of a cultural reluctance to discuss stress and seek support was universally acknowledged among the interviewees, many expressed a personal wish not to conform to it, and identified it as a prominent barrier to judicial wellbeing. They expressed hope that future generations of judicial officers would be more comfortable acknowledging the human reality of the work and embracing opportunities for reflection and personal growth.

*I think it is very useful for judges, particularly when they're new judges and so forth, to realise we're not alone in the way that they feel about things, and that there is institutional sort of support and recognition of the fact that you may have problems from time to time, for various reasons. So, the stressors maybe outside work, but they may impact on your work in some way or other, and that there may be ways to assist you, and also to take care of yourself. And I think to take care of yourself is very important. I mean the only plant and equipment a judge or a barrister or magistrate has is themselves, and you have to maintain it and look after it, psychologically as well, and I think that recognition of that is really important.*

In summary, all interviewees referenced, in one way or another, the stigmatisation of stress within legal professional culture, and recognised it as a significant hurdle to overcome, both individually and systemically, if

any movement towards judicial wellbeing were to gain traction. The hazards of allowing the prevailing culture to remain unchecked were evident in the accounts of several judicial officers for whom the pain of an already difficult period was compounded by the shame and isolation they experienced believing their struggles would be judged and belittled by their fellow judges. However, there was a countervailing thread within this theme that, although the culture of reluctance was pervasive, a great many judges and magistrates wished it was not so and hoped that, with time, it would shift.

*Theme 5: Alongside stress, there is a deep sense of job satisfaction*

Notwithstanding the many sources of stress, judicial officers' love for and commitment to their work was unmistakable in their discussions of the personal experience of judging. There were four key sub-themes that emerged in how judicial officers described their role satisfaction: (a) honour, privilege and professional pride; (b) the satisfaction of 'making a difference', (c) judicial satisfaction generally offsets judicial stress; and (d) the risks of the 'middle years'.

*Honour, privilege and professional pride.* Almost without exception, judges and magistrates spoke with great sincerity about the 'honour' and 'privilege' of performing an important social and demographic function, and the 'tremendous pride' they feel in delivering justice to the community. They also spoke of enjoying the 'intellectual stimulation' of the work itself, and the satisfaction of seeing a case through to completion 'promptly and efficiently'. One senior trial judge said:

*Being involved in dispensing justice in the public interest, that's the major source [of satisfaction]. No matter what all the stressors are – and I think this is why judges don't leave, and very few of them would say they'd go back [to legal*

practice]. And I'd say all of them, despite all the stresses, would say to varying degrees that they love this job. And I think it's that sense of community service, at the highest level. And the sense of being relevant and doing important work . . . There's a very satisfying aspect to practising the law, because the law is – the law is logical, it's meant to be logical, it's rational, it's designed to achieve a fair and balanced outcome, it's designed to achieve justice. And you're practising that, as a sitting judge. So that's in itself very satisfying.

The satisfaction of 'making a difference'. Another source of satisfaction that was prominent at all levels of the court hierarchy was the sense of 'making a difference' in people's lives. Alongside the principles and ideals of judicial office, and the mastery of technical skill, judicial officers spoke of deriving enormous fulfilment from the human value of their work. It was when sharing examples of effecting positive change in people's lives that judicial officers appeared most inspired by their roles, and most connected to their meaning and purpose. Magistrates spoke of the impact they feel they can have when they attune to the circumstances of the people coming before them, and treat them with dignity, patience and encouragement:

*I love that ability to see humanity and to be so engaged with important decisions in their lives – It's deeply rewarding especially if you get it right. And by getting it right I mean even if it means you've got to send someone to jail for a long time, . . . when the person walks out of the room and [goes] 'that's okay, she listened, she cared, I've got to do this, it was right'. The way it was done was right and the decision was right. That's rewarding.*

In a similar vein:

*[W]hen punters are doing badly and then, you know, for whatever reason they turn things around and start to do well – and you're encouraging them, supporting*

*them and you're recognising the efforts that they've made – It's wonderful for them because . . . a lot of the time, you know, they've been through life and no one's actually said a good thing about them, ever. So, getting them to believe in themselves. Just giving them some confidence – and you can't lose sight of the fact that as a magistrate or judge physically we occupy a space above a person. And I think in people's expectation or perception we do also. So, having an accolade given to someone who might be homeless or drug affected or something – can have a powerful impact.*

Judges spoke similarly about the satisfaction of making a difference in people's lives, but tended to emphasise achieving it through their decisions rather than through their interpersonal engagement:

*[T]here are occasions in cases where I feel that the decision I've made or the order I've made has a real chance of helping bring something good to whoever is involved. . . . And as I say I get satisfaction from feeling I've had insight into individuals' circumstances and sometimes been able to do something that helps, and if not help or [deliver] something pleasing to the person, at least bring to an end something that was otherwise unresolved and had to be resolved.*

Judicial satisfaction generally offsets judicial stress. Interviewees were asked whether they thought the sources of satisfaction in judicial work compensated or offset the sources of stress. Almost everyone responded with a version of 'of course it does, or I wouldn't do it'. A minority felt that the balance had tipped the other way: 'At the moment the stress is outweighing the personal satisfaction', but this was seen as either a temporary state of affairs, or an enduring reality to which they were reconciled. One superior court judge reflected that there was always more stress than satisfaction, but this did not bother her:

*I don't think it really has much of an impact on me. Because my view is that I'm*

*here to do a job – and it is a job – and I do it to the best of my ability. But it is a job. . . . I've never been someone who has got out of bed in the morning – loved coming to work, wanting to be here the whole day. I'm not someone who loves the law. So for me – it's – I'm very, very fortunate that I've got a very good job, I've been well remunerated throughout my working career. It's enabled me to do a lot of things that I want to do outside of work. I have a very comfortable life. But my job – other than facilitating other things – my job is not the source of my prime satisfaction.*

A number of judicial officers made the interesting observation that often the sources of stress are also the sources of greatest satisfaction – they are *'two sides of the same coin'*. As one magistrate said:

*[P]robably the most stressful time I had was working in the Children's Court. It was, you know, very sort of up close and personal in terms of the issues that you deal with there. But it is also one of the most stimulating parts of the – of my time as a judicial officer. So, I think that dilemma is often present – you know, that you have the challenges but there is personal satisfaction along with it.*

Others found that reconnecting to the values that drew them to accept appointment in the first place was the alchemy that could convert stress to satisfaction:

*You really feel like you do contribute to the community, and it sounds Pollyanna, but I really feel like it's a job that has to be done, I feel like doing it well is a contribution, I think it's an honour to be on this court and . . . I've always felt that I signed up for community service – that's what I said when I swore the oath. And I've always – whenever I feel stressed, I think 'this is what you signed up for'.*

*Risks of the 'middle years'*. While it was clear that the many rewards and privileges of judicial office were protective against the many sources of stress, longer serving judges

and magistrates observed that job satisfaction became harder to access as time went on. The 'middle years' of the judicial career – referred to by one judge as *'the second 10'* – were frequently identified as the period when satisfaction was at its lowest ebb, and consequently a critical cross-roads at which judicial officers either find a way to renew themselves and stay motivated, or fall into a career malaise from which it is difficult to recover. One magistrate said this 'fork in the road' was visible in the faces of her longer serving colleagues: *'if you look at us as a group in a room you can literally see the division, and I don't know what you do with the people that don't make the transition'*.

At around the 6- to 10-year mark, people spoke of becoming, or seeing their colleagues become, *'burnt-out'*, *'jaded'* and *'cynical'*, once the excitement and novelty of the first few years wore off, and the cumulation of work overload, disturbing subject matter and systemic failings began to erode their sense of positive contribution. One long-serving magistrate noticed that it had become harder not only to derive satisfaction from the work, but also to be the kind of magistrate she wanted to be:

*I know that I am not as patient in court as I like to be. I have a vision of what the perfect judicial officer is and I'm falling short of that vision at the moment. But my aim is to be perfectly reasonable and calm and non-judgmental and patient 24/7 on the bench, and I can tell that these days I'm short – occasionally I say things that I regret saying and I don't like doing that. . . . An example is I'm absolutely over people who keep drink-driving. That's a culmination of [20+] years of having to listen to every excuse under the sun about why people drink-drive or drug-drive. Actually, you get over it. But the stress is that, instead of me just keeping my mouth shut, I'm now going 'what is it that you don't understand, you're suspended'.*

The impact of repetition – the same offences, same arguments, same rulings – was

described by several senior judicial officers as leading them to feeling disconnected from the human reality of the cases before them. As one judge sitting principally in sex offence matters said:

*You run the risk of it becoming 'same old, same old', and where . . . we call them 'who stuck what where?' [cases], and that's – even that sort of construct really bespeaks a bit of burnout, that people are just 'I do not want to hear about one more penetration'.*

A magistrate of 10+ years, who declared he loved his job, still described cumulative repetitiveness as demoralising:

*[Y]ou're just going through that process time and time again. The sermons are often – I call them sermons – but what you're saying to the people are often the same. And, I mean, I acknowledge that for example the role of a magistrate or a judge is not that different to a Broadway actor in that sense – that you're performing the same play every night but it's a different audience. But can you imagine being on Broadway for 10 years, you know, performing the same role in that play day in day out? It's a useful analogy because it's not that dissimilar. Even if it was the best role on Broadway – you'd eventually get tired of it. And this is a great job – it is a wonderful job. It just has some serious pitfalls.*

For those judicial officers who felt they had navigated the middle years successfully, most identified engaging more deeply and taking on new challenges as the pathway out. Many found new and creative ways to enhance their sense of 'making a difference', not just in the lives of individual people, but in the system as a whole. Some achieved this through taking on leadership roles within the court, or engaging with judicial education bodies, both nationally and internationally. Others reinvigorated their sense of purpose through direct community engagement – for example, through creating and supporting diversion

programmes for young offenders – and described the importance of this work to their own longevity in the role. One magistrate who had made conscious choices to protect and build her career satisfaction during the middle years described the bleak alternative for those who are not able to work in that way:

*[Y]ou just get worn down by it . . . you're feeling a bit isolated and you think 'oh my God I've got another 10, 15, 20 years of this! Can I do this?'. It becomes Groundhog Day, and I'm not there yet because I've purposely . . . created my own opportunities. But if people don't have the skill or the knowledge to do that – which they don't because they're lawyers, they're not community people . . . you know, they're kind of stuck, and then the rot sets in. And coupled with the offenders coming back over and over again, and then you get the cynicism and that's dangerous, I think.*

In summary, judicial officers' dedication and sense of vocation was palpable even while they were describing the sources of stress within their work. The satisfaction and professional pride they derived from dispensing justice, developing the law, serving the community and making a difference in people's lives were enormous, and generally seen as compensating for the stress and pressure they experience in the role. However, the middle years – the period from 6 to 10 years post-appointment, when the novelty has worn off, but there are still many years ahead – were identified as the stage at which the risks of burnout and cynicism peaked, and therefore a critical time for deliberate and purposeful satisfaction management.

*Theme 6: Judicial officers sourcing the most enjoyment from the role are those who prioritise their own wellbeing*

Among the 59 interviewees, there was a sizeable minority who, within the range of qualitative data obtained in this study, might be called 'judicial thrivers'. These were the judges and magistrates who spoke most

energetically about the sustained enjoyment they derive from their work, appeared most connected to their meaning and purpose, and embodied a sense of grounded, stable professional efficacy. These were also the judicial officers who had consciously and deliberately built practices and habits to support their own wellbeing. These tended to cluster around four ideas: (a) looking after physical health; (b) maintaining balanced lives; (c) developing personal philosophies; and (d) proactively seeking support in difficult times.

*Looking after physical health.* People spoke about looking after their physical health, with regular exercise, limiting alcohol intake and maintaining a healthy, balanced diet. Some had longstanding health and fitness practices that they carried over from their previous careers. Others had made the conscious choice upon appointment – a time when the striving and competition that characterises a career in legal practice typically falls away – to establish new, healthy habits. There was a general consensus among the thrivers that ‘*exercise is really just essential*’ – both for managing judicial stress and for supporting judicial performance. One magistrate described using daily vigorous exercise to metabolise the tension and conflict of the role and ‘*reboot for the next day*’: ‘*The last thing you want to do in this job is go home and sit on the couch and ruminant*’. A superior court judge observed that when he rides his bike to court in the morning, his ‘*performance during that day could be as much as 30 or 40% better, because you’re calmer*’. Judicial thrivers saw their physical health as foundational to their ability to discharge their duty. Many coupled it with other wellbeing practices that cultivate reflection and mindfulness – such as meditation, journalling and time in nature.

*Balanced lives.* Another hallmark of those who, after several years in office, continued to source enjoyment from the role was that they had *balanced lives*. These were people for whom judicial work was but one aspect of

their lives and their identities, and but one source of meaning and satisfaction. As one magistrate said:

*Am I overall happy and satisfied with my life and the work that I do? Yes! . . . I suspect because I’ve never defined myself by the work that I do. I’ve never identified myself as a judicial officer to anyone unless they specifically asked. So, what I do between 9 to 5 is not who I am as a person. And I think that’s a really important distinction that I hold.*

There were several ways the thrivers consciously and deliberately strove to achieve this balance. They spoke of taking their leave regularly throughout the year, rather than letting it bank up; maintaining interests and friendships outside the law; and creating balance and positivity within their roles through pursuing related interests such as law reform and international judicial networks. They also emphasised maintaining strict boundaries between work and home – especially not bringing court files into their home – so that the heaviness of judicial work does not infect their private lives: ‘*I’ve always quite religiously made that kind of separation. I refuse to take nasty files home. I don’t want any sex offences in my house*’.

*Personal philosophies.* Most judicial thrivers had developed personal philosophies to reconcile themselves to the enormity of their role. These were individually crafted psychological strategies that helped judges and magistrates to stay connected to the work without burning out. Several spoke of consciously confining their concern to their sphere of influence and not taking on responsibility for what is outside the scope of their role:

*I often sort of smile or raise my eyebrows when magistrates or colleagues are concerned about how well people are doing or not doing on particular orders – or the fact that they’ve reoffended whilst they’ve been on one of the orders they’ve placed them on. I have zero expectation of*

*someone when I put them on an order. I hope that they will do well – but if they fail then I don't have any emotional investment in the outcome. . . . Does it give me a great deal of joy and satisfaction when someone comes back if I've been monitoring them on a community correction order and they've turned their life around? – Absolutely. But I hope for the best and expect the worst . . . that's my bushwalking philosophy.*

Others adopted a professional identity and attitude towards their work that brought the formidable task of judging out of the realm of ideals and into the realm of human manageability – whether it be requiring counsel to 'do the heavy lifting' when grappling with a novel or complex legal issue, not 'writing for posterity', being 'prepared to do something less than perfect', or finding a place of acceptance for what they cannot change:

*[T]here's not going to be a miracle in State Government with the appointment of another ten judges, that's never going to happen. There will always be the pressure. The system that we work in is like the public hospitals or the schools; there's never enough funding to do all the things that we want to do, so it's a constant. I don't think that there's really a great deal that can be done about it. I think that's the job you're in and I think you just face it and get on with it.*

As an extension of this attitude of equanimity, some judicial thrivers strove to actively embrace the challenges as healthy, galvanising and meaningful. One magistrate described his journey of making peace with the fact that sentencing a person to prison will never be comfortable:

*[T]he day that I find that an easy decision would be the day that I think I've been here one day too long. . . . It should always be a difficult decision. And each of these cases should be difficult because it should demand my attention, and they should occupy me, and the moment that I approach them in a flippant way is the*

*moment that the tickets come out the other end I should take it and go home. . . . [If] I'm not affected by it then I can't be doing it well. I'm then disconnected by it, and that's not what I'm employed to do.*

Similarly, a superior court judge spoke of adopting a growth mindset within her work, which placed curiosity and learning, rather than knowing and performing, at the centre of her job satisfaction:

*I've always taken the view that for me this was going to be a learning curve, it's a really steep learning curve to begin with but it would continue to be a fairly steep learning curve throughout my judicial career. So, I don't stress about not knowing things or appearing stupid.*

*Proactively seeking support.* Critically, one thing that almost all judicial thrivers had in common was that they were open about their struggles and proactively sought support. They fostered rich and reciprocal relationships with trusted colleagues, with whom they could be authentic and vulnerable and rely upon in moments of distress. One judge described the support she received when a litigant, whose case had just failed in court, made an attempt on their own life just outside the court building:

*I came back and had a bit of a cry in my chambers, I've got to say. And fortunately, one of my colleagues was around to come and give me a cuddle, because that's what I needed at that time. And – and then debriefing with other colleagues and they said – 'look you've made the right decision, you had to apply legal principle'.*

Judicial thrivers also generally had no internalised stigma associated with accessing professional support in times of difficulty, and some – like this coroner – had established therapeutic relationships with psychologists whom they saw regularly in a quasi-



professional supervision capacity as part of their overall proactive wellbeing plan:

*[I]t's definitely great catching up with the psychologist, and sometimes we talk about a case, and sometimes we talk about the culture and the personalities of work, and sometimes we talk about nothing and I'll say 'oh my God, what are we going to talk about today?' and he says 'it doesn't matter, we're building a therapeutic relationship and next time you need me I'll be here'. But I always find something to talk about and when the hour's up I'm like 'oh my God, what happened? I don't know where the time went'.*

It is important to include in this theme that there were some interviewees who reported sustained enjoyment for their role, and had balanced lives and a positive outlook – but differed from the other thrivers in two distinct ways. First, they saw no value in discussing the human dimension of their work with colleagues or professionals: *'I have never and I will never . . . I just, that doesn't help me. I don't like it, I feel uncomfortable, it isn't a space that I want to go to, and I just don't imagine it ever, ever happening'*. Second, they spoke of stress, not as a fact of life requiring care and attention, but as something that *'blunt, quick, unforgiving'* judges should simply push past. Some, like this longer serving trial judge, saw the phenomenon of judicial stress as a *'modern'* and *'increasing problem'*, linked to *'cultural change'* among the increasingly *'angst ridden'* judiciary:

*Now it strikes me that there are a lot of judges who are stressed. I'm not stressed. . . . [F]or me, I'm not interested in courses. I'm not interested in talking to people about it. I just go into court and do my job, and nobody bullies me, and nobody gives me a hard time, because I'm strong and decisive. I'm polite – firm but fair. And so, I don't experience what they experience. But I'm sympathetic to their plight. . . .*

*A lot of people who are now appointed as judges struggle with the role. . . . [W]hen I started I was told 'do what you cannot do'. In other words: 'jump in the deep*

*end. . . . Extend yourself. Trust yourself'. But it wasn't a case of mentoring or a program or a graduated return or whatever. It was a case of 'do that, that is hard, but you will manage, and you will be better for it'. And the proof is in the pudding: they were 100% right. It was agony for the first 5 years. I was terrified. I had no idea what I was doing. . . . I had no idea, but I learnt and I learnt and learnt and I learnt and it made me better.*

In general, however, those who into their middle and later years on the bench continued to feel energised, happy and fulfilled in their roles, and saw stress as a human reality to be continually managed – including with collegial and professional support.

As an overall statement, judicial thrivers did not take their wellbeing for granted and were purposeful and deliberate in looking after it. In some instances, this commitment sprang from an earlier personal crisis that had forced them to take the mental health risks of the work seriously – and in all cases it proceeded from a sober respect for the human dimension of judging and the potential for the work to affect wellbeing. This was epitomised by one thriving superior court judge who, following a family tragedy, had consciously made health and wellbeing a cornerstone of her personal and professional identity:

*So, what I do is I get up very early in the morning – well I get up at 6 o'clock – or this morning it was 5:30 – and I write in my journal and I have my breakfast – and that takes you know – I write for about half an hour and that's very key to me as well for managing my stress because it – it invites reflection and the mornings are quiet reflection time as well. Then I walk into work. I make sure what needs to happen by other people is happening. . . . And then I will do my exercises.*

### **RQ2: How might courts better support the wellbeing of judicial officers?**

Towards the end of the interviews, participants were asked 'If money were no object, what wellbeing programs and interventions that

might better support judicial officers would you like to see?'. There were over 90 distinct ideas suggested by interviewees, the most frequent of which are set out in Table 6. When these ideas are considered together with judicial officers' comments about the sources and experiences of stress, two overarching themes emerge: (a) judicial wellbeing requires judicial time; and (b) judicial wellbeing requires committed leadership. All the specific ideas judicial officers had for organisational responses and supports tended to come back to one or both of these overarching themes.

*Theme 7: Judicial wellbeing requires judicial time*

Fundamentally, systemic enhancement of judicial wellbeing was seen as unattainable without giving proper thought to the 'perennial issue about time'. In grappling with this thorny issue, judicial officers articulated challenges as well as ideas, and called for radical consideration of several matters, including: (a) workload reduction; (b) scheduled time out of court and/or flexible work arrangements; (c) treating judicial education as a legitimate use of judicial time; and (d) appointing more judicial officers and support personnel.

*Workload reduction.* Just as workload was identified as the greatest source of judicial stress (see Theme 1 above), it was also seen as the biggest obstacle to success for any judicial wellbeing initiative. This was because wellbeing was recognised by most judicial officers as something that *takes time*. Whether it be building in regular exercise or mindfulness, attending wellbeing education, participating in proactive counselling and reflective practice, or striving for a balanced life – it takes time, and as one judge said: '*[the] oppressive workload . . . leaves no time for looking after your wellbeing*'. For many, it was not possible to think about judicial wellbeing, either individually or systemically, while the workload issue remained unaddressed. For some, a court-led judicial wellbeing initiative that did not include

workload reduction would be disingenuous and 'a waste of time'. One commented:

*From my point of view, it's very easy: Our workload has to be reduced. And if our workload is not reduced, then that's what causes all of these issues. . . . I think that's the answer, our workload just literally has to be reduced.*

*Time out of court and flexible work.* There were a number of concrete ideas voiced that pointed to this fundamental need for more time. Magistrates very commonly called for 'scheduled time out of court' – typically half a day every two weeks – in order to attend to their non-court work in a planned and predictable way. As one magistrate said, what would be most helpful is:

*[S]ome time out. And not being made to feel guilty about having the time – because I think that sort of mental health is really important. . . . That would make the biggest difference to me in the next 10 years if, once a fortnight, I can have a morning or an afternoon off to either do all my paperwork or to – just some time to myself on court time to do whatever I felt necessary.*

Magistrates also frequently expressed that they need 'more leave', to enable regular recovery and recharging, and to bring their entitlements more in line with the rest of the judiciary: '*I think there needs to be recognition that what we are doing is as stressful as what judges do, therefore if they need 9 weeks or 10 weeks, we need 9 weeks or 10 weeks*'.

In the higher courts, judges – especially female judges – made a call for part-time or more flexible work options:

*There is no reason why judges can't work flexibly. Particularly if they want to transition towards retirement . . . there's no reason why, for instance, the [specialised court] couldn't be entirely run by judges who are transitioning to retirement. They would be so experienced, everything would be ex tempore, there's not that much preparation – and it can be slotted in on different days.*

*Judicial education as a legitimate use of judicial time.* Throughout the court hierarchy, the systemic allocation of more time for non-court work was seen as a prerequisite to the viability of other wellbeing interventions. For example, many judges and magistrates identified judicial education and related developmental resources as a crucial part of what they were seeking from ‘the system’ to support their occupational wellbeing. They had very specific ideas for structured mentoring programs, holistic judicial induction, 360-degree feedback and training courses in judgment writing, oral decisions, leadership and stress management. There was also a strong desire for opportunities to discuss together the human dimension of judging and embedding wellbeing content in courts’ conferences. However, these ideas for wellbeing- and competence-enhancing education were generally followed swiftly with the observation that *‘the extreme workload [will always be] a barrier to feeling like you’re able to give time to it’*.

Judicial officers reflected on the likelihood (in the absence of a reduced workload) that increased educational opportunities would make an appreciable difference to their stress levels; they were pessimistic. Judges described the ‘Catch-22’ of having to decide what would serve their wellbeing more: participation in supportive judicial education, or staying back and writing that judgment. Often the latter wins out: *‘We’re actually very busy; I mean, I run [multiple] lists and really there’s enough to do – and I have very sincerely registered for a whole lot of [judicial education programs] but then something happens, and I can’t get there’*. For magistrates, their pessimism proceeded from the experience of seeking permission from *‘the powers that be’* to attend judicial education, but *‘get[ting] an email back saying “no, sorry, can’t spare you” – time and time again – almost to the point where you think “well, what’s the point?”’*. In both cases, while judicial officers sought enriching and meaningful collegial education and interaction, they could not foresee it enhancing their wellbeing without a structural reorganisation of their workloads.

*More judicial officers and support personnel.* Given the courts do not generate their own work, and *‘there is a massive humanity that need their cases dealt with’*, the question of how this structural reorganisation could be effected was readily acknowledged as fraught. Upon reflection, there were only two ways in which judicial officers imagined their need for more time could actually be achieved: (a) appointing more judges and magistrates; and (b) engaging more or better skilled support staff to establish and maintain better processes.

The former was seen simultaneously as both the most obvious and the least realistic solution: *‘the only way that the pressure would change would be if you had a lot more courts and certainly a lot more magistrates – and that’s not going to happen’*. The latter was seen as possible, with sufficient political will. Magistrates, who might be allocated a different court clerk each day, suggested that if they had personal staff – *‘a staff member attached to us’* – they could build an effective working relationship with that person and streamline processes. Judges, who have personal staff in the form of Associates or Tipstaves, saw a need for more highly trained support staff in other areas of the court. One judge suggested that her workload would be dramatically reduced with *‘the resourcing of proper support staff. The ability to have . . . more support for the job that you do, and also to feel as if you’re part of a stronger, more effective culture. . . . [We need] more, sort of, mid-career lawyers’*.

In essence, while thoughtful and creative ideas for enhancing judicial wellbeing were plentiful among interviewees, the perception was that enacting them would be impossible; alternatively, they were perceived as another source of stress – because judicial workloads do not enable any time to be allocated for non-court activities. The thrust of this theme was that, within the many and complex demands of judicial work, there is irreducible need for time, space, reflection and integration and a genuine commitment to sustained judicial

wellbeing. The conclusion was that this may require a radical and systemic rethink of the legitimate expectations and activities of judicial office.

*Theme 8. Judicial wellbeing requires committed leadership*

The second overarching theme that sat alongside the many ideas for wellbeing reform was the sentiment that the role of judicial leaders is key. Indeed, ‘good leadership’ was the most frequently mentioned idea for court responses, as shown in Table 6. It was clear that judicial officers held little hope for meaningful improvements in judicial wellbeing without the unequivocal support from the highest echelons within the court system, and they were looking to their leaders for two principal things: (a) to create the conditions in which judicial wellbeing could flourish; and (b) to model open and authentic engagement with wellbeing-related initiatives.

*Leaders to create the conditions for judicial wellbeing to flourish.* Regarding the former, judicial leaders – especially Heads of Jurisdiction – were seen as the only force within the system who could influence the structural, organisational and cultural changes necessary to render enhanced judicial wellbeing a realistic possibility. As one judicial officer said, ‘*I think leadership is everything . . . it makes a big difference, you need to look at who is in leadership roles*’. In addition to ideas for increased judicial time and expanded judicial education, discussed earlier, interviewees proffered dozens of suggestions for reforms to workflow, case triage, listing processes, critical incident response, judicial induction, proactive wellbeing supervision (mandatory or voluntary) and court culture – which they believed would remove unnecessary stress from judicial life. When asked what it would take for these ideas to become reality, most judicial officers said they were predicated upon the skill and will of judicial leaders. One judicial officer observed: ‘*it has to be pushed by the*

*leaders – so if the leaders are not recognising the need for such a program, it’s not going to be given priority*’. One judicial officer summarised it this way:

*[Y]ou’d be thinking, wouldn’t you, about health promoting activities on the one hand, and ill-health responsive things on the other. And, you know, I think that [for] both of those you need very strong leadership in the court.*

Practical suggestions regarding changes to court policy or processes – for example, implementing a system for the ‘*risk management of files*’ according to stress factors such as ‘*more traumatic content*’, ‘*high media attention*’ or ‘*type of defence practitioner . . . Silk*’ – would require a diversion of court resources and therefore ‘*decisive leadership*’. Similarly, the suggestions relating to strengthening court culture – for example, sending the message that participation in judicial education is not ‘*skiving*’ but a legitimate use of judicial time – would have to come from the ‘*Chief, nowhere else*’. More fundamentally, a number of interviewees identified that, for a court to genuinely address the issue of judicial stress, judges and magistrates must feel ‘*safe*’ to ‘*talk about it*’ – to raise concerns and know they will be heard by those with some capacity to respond: their judicial leaders. As one judicial officer said, if people ‘*[don’t] know who to go to in court with a problem*’, or if the Head of Jurisdiction ‘*doesn’t want to hear anything negative*’, then ‘*things will fester*’.

*Leaders to model engagement with wellbeing initiatives.* Equally as important as the judicial leaders’ role in establishing structures and supports within the court to promote wellbeing was their responsibility to model engagement with them. After ‘good leadership’, the second most frequently mentioned idea for court responses was ‘normalisation of stress’ (see Table 6). Judicial officers wanted to know that the way the work affects them from time to time is ‘*perfectly normal*’ – that

they are 'not alone in it', that 'there's nothing wrong with [them]', and that they do not need to be '10 foot tall, nickel-plated and bullet proof'. One magistrate articulated the relief and self-compassion that she imagined could flow if the human dimension of judging were normalised:

*[We would realise] it's okay to be stressed, it's okay to want to go home and cry. It's okay to be a normal human being, you're not a super person and it's okay to make mistakes . . . it's okay to be criticised . . . by judges – to learn that all of those things are okay and you're still a worthwhile person despite that. And it's okay to say: 'I can't cope, I need to have a break'.*

The way judicial officers spoke about 'good leadership' and 'normalisation' made it clear that the two concepts were linked in interviewees' minds. As discussed in Theme 4 earlier, the cultural reluctance to discuss stress and seek support was seen by many as a prominent barrier to judicial wellbeing. 'Normalisation' was seen as the antidote, and judicial leaders were seen as the ones who could achieve it. As one magistrate said:

*We need to have leadership at the highest levels to encourage us and leadership by example. If the leaders go off and do a retreat or go to the wellbeing conferences, that then will encourage the rest of us to go. And the occasional direction to go wouldn't go astray.*

Judges spoke similarly about the importance of 'leading from the top down' when it comes to shifting the culture of stigma around stress and wellbeing. One judge, locating the stigmatisation of stress within the traditionally masculine judicial culture, said that engaging with the topic of wellbeing . . . :

*. . . just doesn't correspond with [many judges'] sense of themselves as a financial provider, or as a man. So, you know I think there's those male stereotypes. Also, and this is not confined to the legal*

*profession, like doctors, I think, suffer from this as well – you know, high achieving people find it hard to acknowledge weakness. So, yeah, it needs to be really led from the top, needs to be normalised. . . . From the Head of Jurisdiction, yeah. And, also, like not just the Head of Jurisdiction, but also other senior judges.*

While Heads of Jurisdiction and their delegates were the focus of many interviewees' comments, it was clear that the call for cultural leadership on this issue was not directed solely to those in formal leadership positions. Women frequently suggested that, for change to become mainstreamed, it may require a courageous 'bloke' of the 'old guard' to open up about his own experience of struggle, adjustment or emotion in the role:

*[I]f someone who was perceived as an independent, strong, nothing-hurts-me male stood up and said 'well, I was really affected by this child pornography thing that I saw, and this is how [counselling] helped me', that would be amazing. But that very much depends on someone being willing to do it.*

For those in the lower courts, the 'destigmatisation of the whole thing' would need to come not only from judicial leaders within their own jurisdiction, but 'from superior courts'. It was felt that the cultural 'taboo' around mental health was system-wide, and therefore the process of normalisation would likewise have to be system-wide – led from the highest courts within the system – with 'significant role models and champions . . . from [higher] jurisdictions, coming and saying "hey, it's a good thing"'.

*Authentic and genuine leadership.* In thinking about what committed leadership for judicial wellbeing looked like, interviewees emphasised the *genuineness* of the leaders' commitment as vital. In terms of creating the conditions for wellbeing to flourish, judicial officers stressed that these conditions need to

be real and tangible, not confined to discussion papers and strategy:

*I often find organisations – they say they're doing things, they're looking like it's all marvellous and everything's happening – [but] go and have a look, go and really drill down, go and have a look, see and ask. . . . [C]ourts are pretty good at it; putting into place systems and then saying everything's looking fabulous and it's working really well. And the reality is, if you drill down, it's not at all. It's the package you're presenting to the world, but it's not what's actually happening on the ground.*

Similarly, in terms of modelling engagement with wellbeing initiatives, judicial officers wanted to see 'personal acknowledgement that it's necessary' from their leaders, 'not just token attendances'. They wanted leaders to admit they too are human – and include themselves among those for whom wellbeing education and support were needed – but also not to wait until the negative impacts of judicial stress had touched them personally before they took action: 'it's horrible to think that you have to wait for that sort of inspiration'. Overall, judicial officers wanted those with the formal and cultural power within the court system to take this matter 'seriously' – to give it commensurate priority with other court business – and to demonstrate the courage, curiosity and humility to challenge existing practices, the prevailing culture, and their own pre-conceptions around the human limits and impacts of judicial work.

## Discussion

Our study examined Australian judicial officers' experiences of occupational stress (Research Question 1: RQ1) and their ideas about possible solutions (Research Question 2: RQ2). Interview questions were framed around five broad topics: (a) sources of judicial stress; (b) sources of judicial satisfaction; (c) experiences and impacts of judicial stress;

(d) personal strategies for managing stress; and (e) ideas for court responses. Bringing together qualitative data generated from in-depth interviews with 59 judicial officers from five Australian courts, it is, we believe, the largest scale interview study on judicial stress and wellbeing to have been conducted worldwide. Inductive thematic analysis revealed eight overall themes arising from the interviews – six in relation to RQ1, and two in relation to RQ2. Together, these themes provide a rich and detailed insight into the lived-experience of judicial stress and wellbeing in Australia, and point to a number of key entry points for systemic intervention.

## Key findings

*Theme 1: Workload is an issue for almost everyone*

Workload was both the most frequently cited and most strenuously emphasised stressor by the judicial officers in our study. Throughout the court hierarchy, judicial officers spoke of feeling overwhelmed and exhausted by their workloads – in particular, the constancy of workload pressure coupled with the consistently high emotional and intellectual demands of the role. This emphasis on workload as the principal perceived judicial stressor is consistent with other empirical studies of the judiciary, both in Australia (Appleby et al., 2019; Mack et al., 2012; Roach Anleu & Mack, 2017) and overseas (Ciocoiu et al., 2010a; Lustig, Karnik, et al., 2008; Resnick et al., 2011; Rossouw & Rothmann, 2020b; Swenson et al., 2020; Thomas, 2021, 2023). Indeed, in a recent international survey of judicial officers from over 90 countries (Global Judicial Integrity Network, 2022), workload was the most endorsed judicial stressor by judges globally. Workload is also among the most prominent sources of stress identified by lawyers (Bergin & Jimmieson, 2014; Cadieux et al., 2022; Soon et al., 2023) and other professionals (Bhui et al., 2016). Our study

extends the existing knowledge by confirming that workload is perceived as the primary judicial stressor at all levels of the court system, and offering a more granular insight into the qualitatively different experience of workload pressure at each of those levels.

*Theme 2: Most judicial officers feel that the sources of stress are increasing*

The majority of the judicial officers in our study commented that judicial office is considerably more stressful now than it used to be, due to both increasing work demands (higher workloads, expanded jurisdictions and more complex cases) and increasing external pressures (media hostility, reduced support from the executive government). They also expressed the view that this trend would only continue. This represents a novel finding in the empirical judicial stress literature. Previous research has quantified the prevalence and severity of judicial stress, and its perceived sources and impacts, but has not offered empirical data on perceived longitudinal trends. Outside the judicial stress literature, however, this finding aligns with several other strands of relevant research. In the UK, a continuous survey of judicial attitudes, so far conducted in 2014, 2016, 2020 and 2022 (Thomas, 2015, 2017, 2021, 2023), has consistently reported that most judges in England and Wales feel less respected by society now than in the past, and perceive their working conditions to be worse – although, interestingly, the most recent iteration indicates that these trends may be beginning to plateau (Thomas, 2023).

In Australia, a sociolegal survey of judicial officers' perceptions regarding the challenges facing the judiciary as an institution (in particular, the regulatory and support environment in which it operates), reported free-text comments by respondents indicating that their workload and work pressure is increasing (Appleby et al., 2019). Supporting this perception, detailed research on the supply of judicial

labour in Australia by Brian Opeskin (2017, 2021) has reported that, since 2003, judicial officers have become significantly scarcer per capita, with judicial appointments failing to keep up with population growth. Our study demonstrates that these perceived and actual changes in the judicial working environment are explicitly linked to judicial officers' subjective stress experiences.

*Theme 3: Stressors of injustice are felt most keenly*

Judges and magistrates in our study identified over 100 stressors of judicial office, with 'workload' and 'case content' being the two most frequently mentioned at all levels of the court hierarchy. This is largely consistent with previous studies that have sought to rank judicial stressors (Ciocoiu et al., 2010a; C. P. Edwards & Miller, 2019; Eells & Showalter, 1994; Global Judicial Integrity Network, 2022; Lustig, Karnik, et al., 2008; O'Sullivan et al., 2022; Resnick et al., 2011; Rogers et al., 1991; Swenson et al., 2020). Our qualitative analysis revealed, however, that it was the stress associated with witnessing or experiencing *injustice* that carried the greatest affective distress for judicial officers. This is an important and unexpected finding that raises two interesting points about the factors contributing most strongly to the subjective experience of judicial stress.

First, the finding suggests that some judicial stress may be linked to experiences of 'moral injury' – a psychological syndrome defined as 'an emotional, spiritual, and psychological wound resulting from acts of commission or omission that violate one's sense of morality and give rise to profound inner moral conflict' (Roth et al., 2022, p. 594). It is understood to arise when workers are faced with morally conflicting, high-stakes decision-making requiring them to take responsibility for resulting negative impacts on others (Jinkerson, 2016). Originating in the literature on military trauma (Drescher et al., 2011; Litz et al., 2009), moral injury has since been

explored in other populations, including medical professionals (Førde & Aasland, 2008; Huffman & Rittenmeyer, 2012), police (Papazoglou et al., 2020), teachers (Currier et al., 2015) and forensic psychiatry patients (Roth et al., 2022). It has been discussed in relation to lawyers (Iversen & Robertson, 2021; James, 2020; Rabil, 2021; Smith, 2018) and judges (Iversen & Robertson, 2021), but not empirically examined. The judicial officers in our study expressed pain and frustration at feeling unable to prevent injustice from unfolding in their courtrooms (due to a range of systemic challenges, such as an overloaded court system, inflexibilities in the law, inadequate community services and poor advocacy). These feelings point to deeply held moral beliefs about fairness and equality, and the moral distress generated when they are violated.

Second, this finding indicates that it is the *extrinsic* aspects of the judicial role, rather than the *intrinsic* features of the task of judging, that are perceived to cause the most stress. When asked to identify the major sources of stress in their work, judicial officers in our study emphasised organisational and systemic sources of grievance or inequity (such as disproportionate focus on throughput, unequal work distribution among judicial colleagues, lack of organisational transparency, and unfair treatment by appellate courts), as opposed to the intellectually and emotionally challenging features of their judicial function (such as the content of cases, the complexity of decision-making, or courtroom management). This emphasis on factors within the judicial working environment, over the inherent requirements of the job, is consistent with the survey findings of Roach Anleu and Mack, who reported that Australian judges and magistrates expressed greatest satisfaction with the ‘intrinsic qualities of work’, and less with their ‘workplace-organisational context’ (Roach Anleu & Mack, 2017). Whereas the commentary (Adam, 2007; Heilpern, 2017; Kirby, 1995, 1997a) and theoretical writing

(Chamberlain & Miller, 2008; Chamberlain & Richardson, 2013; Zimmerman, 2000, 2006) on judicial stress has often highlighted exposure to human misery, conflict and graphic evidence as principal stressors, our study suggests a qualitatively different impact of these stressors when compared to those associated with injustice. This is consistent with substantial empirical evidence across many professional contexts demonstrating that occupational stress is greatest when work demands are perceived as unfair, illegitimate or transgressing occupational norms (Elovainio et al., 2006; Ford & Jin, 2015; Kottwitz et al., 2008; Robbins et al., 2012). A possible explanation for the differential impact (one consistent with parallel findings concerning job satisfaction: Roach Anleu & Mack, 2017), is that the intrinsic demands of judging, while often disturbing and disheartening, are experienced as *meaningful* – whereas the extrinsic stressors of injustice not only transgress core values of fairness but appear to serve little meaningful purpose.

*Theme 4: There remains a cultural reluctance to discuss stress and seek support*

An acute awareness of the stigmatisation of stress in judicial culture was expressed by almost all judicial officers in our study. It was evident, both from their descriptions of difficult times they had been through and their ideas for court responses, that concerns about judgment from peers and leaders presented a barrier to participating in a more open conversation about judicial wellbeing, and to accessing support when needed. It was also apparent that, although most judicial officers felt the need to conform to the culture of silence and stigma – even to their own detriment – many wished that it would change. Both the existence of an entrenched cultural taboo and the desire for it to be otherwise is consistent with the earliest writing on judicial stress in Australia; in the mid-1990s, one senior Australian judge referred to judicial stress as ‘an unmentionable topic’ (Kirby, 1995, 1997a), and was criticised for raising it by



another senior judge who told him to ‘get up off the ground’ (Thomas, 1997). It is also consistent with international scholarship on judicial humanity (Maroney, 2020; Oldfather, 2007) and on the cultural barriers to wellbeing in the legal profession more broadly (International Bar Association, 2021). Our study suggests that the equation of stress with weakness and the expectation of censure are pervasive and enduring aspects of judicial professional culture, and that they are seen as impediments to enhancing wellbeing within the judiciary.

*Theme 5: Alongside judicial stress there is a deep sense of job satisfaction*

For most judicial officers in our study, the satisfaction they derived from their work generally matched and offset the stress it caused them. There was a vibrancy and passion when they spoke about the aspects of the job that they loved – especially the sense of making a difference in people’s lives and the honour and privilege of fulfilling an important democratic function. Consistent with the rich understanding of judicial job satisfaction in Australia, established by Roach Anleu and Mack (2017), and with many widely used interactionist models of occupational stress (e.g. Job Demands–Resources Model: Demerouti et al., 2001), our study confirms that the rewarding and meaningful aspects of judicial work are many and important. Their benefits both coexist with the difficult and draining parts of the job and often compensate for them. In addition, our study provides detailed insight into the specific sources of judicial job satisfaction and how they are experienced. In line with previous Australian research, judicial officers in our study attributed their job satisfaction to the *intrinsic* features of the judicial function (e.g. human interaction, performing well and intellectual stimulation: Roach Anleu & Mack, 2017) and to the quality of their *collegial relationships* (Schrever et al., 2022). Our study also makes two novel findings about judicial job satisfaction. First, when it came to the

intrinsic qualities of their work, many judicial officers spoke of satisfaction being not only congruent with the inherent stressors of the role, but often contingent upon them. They observed that the rewards are greatest when the intellectual and emotional demands are high. Second, our study identifies the ‘middle years’ (6–10 years post-appointment) as the period in which, without purposeful and creative intervention on the part of the judicial officer, judicial satisfaction is often hardest to access.

*Theme 6: Judicial officers sourcing the most enjoyment from the role are those who prioritise their own wellbeing*

We ascribed the label ‘judicial thrivers’ to the sub-group of participants in our study who expressed sustained enjoyment and motivation connected to their work. We found that, generally speaking, these judicial officers all had four attributes in common: (a) they treated their physical health as foundational to their work; (b) they maintained balanced lives, with interests and friendships outside the law; (c) they consciously developed personal philosophies to help navigate the challenges of the role; and (d) they proactively sought support in difficult times. Importantly, these were not people who claimed to have never experienced stress. Rather, they were people who strove to manage their stress through a range of practices and approaches. While two previous survey studies have explored judicial officers’ stress management strategies (Eells & Showalter, 1994; Swenson et al., 2020), our study is the first we are aware of to qualitatively identify judicial thrivers and describe their work–life habits and attitudes. Fundamentally, we found that those judicial officers who exhibit greatest satisfaction and fulfilment in their work are also those who take the psychological risks of the work seriously and consciously look after their wellbeing. This finding may seem common-sensical or even axiomatic: prioritising wellbeing is likely to lead to greater wellbeing; however,

two points are worthy of emphasis. First, developing a personal philosophy and maintaining a balanced life are both suggestive of a deliberate attention to role clarity and role boundaries, which are known protective factors against occupational stress, especially vicarious trauma (Phelps et al., 2009). Second, judicial thrivers' proactive engagement with professional and collegial support is indicative of healthy attitudes towards stress and help-seeking, known to predict wellbeing (Dyrbye et al., 2021; Weiss et al., 2021), and they suggest a counter-cultural renunciation of internalised stigma.

*Theme 7: Judicial wellbeing requires judicial time*

Judicial officers in our study suggested over 90 discrete ideas for the systematic support of systematic judicial wellbeing, including a range of practical, organisational and educational initiatives. When asked to consider any barriers to implementation, the most common response was the lack of time, caused by excessive and unrelenting workloads. The irreducible human need for down-time, reflection time and an ebb-and-flow of workload pressure is borne out by decades of international empirical research (Sonnentag et al., 2023; Wong et al., 2019). This research has demonstrated the detrimental impact of long working hours on physical health (Bannai & Tamakoshi, 2014; Sparks et al., 1997) and mental health (Afonso et al., 2017; Virtanen et al., 2011; White & Beswick, 2003); it has also demonstrated the benefits of regular breaks to productivity and energy levels at work (Kim et al., 2023; Korpela et al., 2016). Previous research similarly confirms the limited utility of wellbeing-focused education in the absence of workload reduction and organisational reform (Giga et al., 2003; Sonnentag et al., 2023).

Interviewees in our study readily acknowledged the difficulties inherent in creating more judicial time for non-case work, given that courts cannot, as former High Court judge Sir

Gerard Brennan stated, 'trim their judicial functions, . . . [being] bound to hear and determine the cases brought within their jurisdiction' (Brennan, 1998, p. 35). Several of the ideas they voiced, including appointing more judicial officers and supporting flexible or part-time work, have been discussed (and their pros and cons evaluated) in the theoretical literature on options for 'optimising [the] scarce resource' of judicial labour in Australia (Opeskin, 2017, p. 847). Our study also uncovered other ideas, including engaging better skilled non-judicial staff and scheduling regular time out of court. Critically, it revealed, for the first time in the judicial stress literature, a collective belief among judicial officers that their occupational wellbeing cannot be systematically enhanced without a radical re-evaluation of their workloads and occupational supports.

*Theme 8: Judicial wellbeing requires committed leadership*

The actions of judicial leaders were seen by our study participants as integral to the success of any project directed towards judicial wellbeing. There was a broadly held view that only judicial leaders were in a position both to create the conditions necessary for wellbeing to flourish (e.g. by directing court resources to structural and organisational initiatives) and to normalise judicial stress (e.g. by modelling engagement in wellbeing programmes). The focus on leaders as the agents of organisational and cultural change is consistent with most prominent models of occupational stress (e.g. job demands-resources model: Demerouti et al., 2001; self-determination theory: Ryan & Deci, 2017); it is also consistent with the weight of empirical evidence across occupations (Sonnentag et al., 2022). While highlighting the central role of supervisor support and leadership style in driving overall occupational wellbeing, these models and empirical studies also emphasise other factors as being equally important, including interpersonal and individual behaviours (Sonnentag et al., 2022). This suggests that leaders play a critical but not

determinative part in ensuring wellbeing within organisations.

It is important to note here that the judicial leaders in our study were far from immune to experiences of stress themselves, and many of them cited leadership and management challenges as among their greatest sources of stress. The uncommonly privileged and independent nature of the judicial role, and the unique leadership conditions under which it operates, should also be taken into consideration. Nevertheless, our study shows that it is to their leaders that judicial officers look to drive wellbeing – and that they feel keenly the wellbeing effects of leadership decisions and approaches.

### ***Strengths of study***

The present study makes a significant and important contribution to the empirical literature on the psychological impact of judicial work. Adding to a very small number of qualitative studies on the judicial experience, it represents the largest scale interview study of judicial officers' stress and wellbeing conducted to date. The study's scale is one of its key strengths. More than 60<sup>2</sup> judicial officers from all levels of the court system agreed to engage in hour-long interviews requiring complex scheduling around court time. This indicates both the level of importance judicial officers ascribed to the topic of judicial stress and the degree of trust they placed in the research team and our approach. The breadth of data afforded by the study's scale allowed it to draw out higher order, cross-jurisdictional themes, while exploring jurisdictional difference. It also allowed us to explore the experience of sub-populations such as judicial leaders and judicial thrivers.

Another significant strength is the depth, candour and richness of the interview data. The judicial officers in our study spoke with great courage and openness about very personal experiences of difficulty, struggle and distress within their roles. They displayed remarkable willingness to broach

complex and sensitive topics – including perceptions of government, the media, court leadership and judicial professional culture. This level of honesty and vulnerability is rare within research involving social and political elites (Dobbin et al., 2001; Nir, 2018; Roach Anleu et al., 2015). We see it as a testament both to the legitimacy attributed to the project and the collective confidence and integrity of the participating judiciary. An additional strength of the study is the novel territory it traversed. For the first time internationally, our study provides detailed and granular data on the way stress affects judicial officers; on how they experience the interplay between the stressors and rewards of their work; on the contextual factors influencing their occupational wellbeing; on their beliefs about longitudinal trends; and on the preconditions for systemic wellbeing enhancement within their ranks.

### ***Significant implications***

The clinical and social significance of this study is substantial. It has directly investigated the psychological vulnerability of a politically elite population whose decisions shape society and profoundly impact the lives of individuals – and whose own suffering has traditionally gone unacknowledged and empirically unexamined. In focusing on the lived-experience of dispensing justice, this study provides new insights into the sources and impacts of judicial stress, with practical implications for both courts and individual judicial officers.

### ***Implications for courts***

Woven through our study's eight themes, there is a hopeful message for courts. In describing the major sources and impacts of stress, judicial officers emphasised the *extrinsic* features of their roles – those demands within the judicial working environment that are perceived as excessive or unfair (e.g. unrelenting

workloads, unequal work distribution and unfair treatment by senior judicial officers). They did not focus in the same way on the *intrinsic* demands of the judicial function (e.g. case content, intellectual complexity, burden of decision-making). The emphasis on extrinsic sources of stress is hopeful for two reasons. First, it suggests that stress mitigation is seen as possible in the judicial context, as extrinsic demands are, by definition, not part of the inherent requirements of the judicial role; they can be changed. Second, it suggests that judicial officers experience and think about their occupational stress in much the same way as other professional groups (Giga et al., 2003; Sonnentag et al., 2022), which means the learnings from other sectors will be applicable in designing court responses.

The particular extrinsic stressors raised by interviewees point to an urgency for systemic reform in a number of areas, especially judicial workloads, cultural messages about stress and leadership approaches. Although the most appropriate actions and initiatives to address these matters are likely to be jurisdiction-specific and require careful consultation within individual courts, the broader occupational stress literature offers some guidance. For example, research has shown workload stress to be greatest when high workloads are accompanied by: (a) a lack of control (Costa et al., 2014); (b) perceptions of unfairness (Ford & Jin, 2015); and/or (c) unrelenting, unvarying workload pressure (Wong et al., 2019). Even in the absence of direct alterations to court workloads, it is possible that the subjective experience of workload pressure could be ameliorated through organisational strategies to enhance autonomy and equitable case allocation.

A systematic review of workload management interventions across Australian workplaces found strong evidence for the reduction of stress, burnout and job dissatisfaction by ‘participatory workplace interventions’ (e.g. structures for the active participation of front-line workers and management to discuss

realistic, implementable changes relevant to daily work, and ongoing monitoring of implementation: Costa et al., 2014). These effects were stronger than for interventions directed to work redesign (e.g. changes to work schedules) or direct workload management (e.g. engaging more staff: Costa et al., 2014). This is not to dismiss the very real need for workloads to be ongoingly reasonable (Wong et al., 2019), which may well, in some jurisdictions, require a *quantitative* reduction in caseloads. However, given the demographically determined workload facing the courts, and the bureaucratic challenges to augmenting the judicial workforce (Opeskin, 2017, 2021), courts may be well served by also considering evidence-based *qualitative* changes to the judicial workload *experience*. If done well, these could even have an indirect quantitative impact, by enhancing productivity and retention of senior and experienced judicial officers (Opeskin, 2017).

When it comes to the role of judicial leaders, there is much to be learned from the vast empirical literature in the fields of leadership, management and organisational psychology. While in previous decades leadership research was principally concerned with effects on employee *performance* (Inceoglu et al., 2018), the last 15 years have seen numerous empirical studies and meta-analyses (Montano et al., 2017, 2023; Sonnentag et al., 2022) that report significant effects of both leadership style and management actions on a range of occupational wellbeing measures. The leadership styles that have been consistently found to support organisational wellbeing are ‘transformational’ leadership (influencing followers through charisma, inspiring them through vision and stimulating creative thinking: Avolio & Bass, 1995); ‘relations oriented’ leadership (showing respectful, supportive and conflict-resolving behaviour towards followers: Bass & Bass, 2008); and ‘task oriented’ leadership (focusing on task assignment, monitoring performance and meeting goals: Yukl, 2013). ‘Destructive’

leadership (engaging in aggressive and potentially harmful behaviour towards followers, and encouraging followers to contravene interests of the organisation: Krasikova et al., 2013) and ‘laissez-faire’ leadership (absent, avoidant of making decisions, hesitant to take action: Judge & Piccolo, 2004) are consistently associated with the worst outcomes in organisations (Montano et al., 2017, 2023; Sonnentag et al., 2022).

Importantly, the research also demonstrates unequivocally that positive leadership styles can be taught (Bass, 1999; Montano et al., 2023). In addition, it points to a number of key organisational interventions that leadership can implement to drive wellbeing, such as providing control, adequate feedback and social support (Sonnentag et al., 2022). The importance placed by participants in our study on the attitudes and actions of their leaders – and judicial leaders’ own comments about their lack of training and experience to meet the uniquely challenging leadership task they face – indicate a significant opportunity for the court system to create and embed tailored and evidence-based leadership training and coaching for judicial leaders. Both the qualitative findings from our study, and the weight of empirical evidence from organisational wellbeing research, suggest this is an important and appropriate place to start in the quest for systemic improvement to judicial wellbeing.

#### *Implications for judicial officers*

The present study also delivers a hopeful message to individual judicial officers. Although the stressors identified were almost entirely located within the working environment, the interview data were also rich with ideas for navigating them. The attributes of ‘judicial thrivers’ identified in Theme 6 are particularly instructive here. Overall, judicial thrivers presented as active agents managing their own wellbeing – not invulnerable to turbulence, but conscious of the risks and approaching them with planning and skill. Their four characteristic approaches (physical health, balanced-lives, personal

philosophies and support-seeking) all bespeak an internal locus of control in the face of challenges (Ng et al., 2006). This is in line with a recent development in the occupational wellbeing literature placing increasing emphasis on workers’ active behaviours, in contrast to the conventional perspective that saw employees as ‘passive receivers of job conditions’ (Sonnentag et al., 2023, p. 485). This hopeful development points to a number of concrete actions judicial officers can take to maximise wellbeing across their years of service.

Aligned with the hallmark behaviours of judicial thrivers in our study, there is good evidence in the research literature that wellbeing is measurably enhanced by: (a) recovery activities and physical exercise (e.g. meaningful breaks during work and pursuing hobbies after work: Sonnentag et al., 2022); (b) boundary management between work and private life (e.g. reducing job-related technology at home: J. R. Edwards & Rothbard, 2000); (c) proactive behaviour (e.g. ‘job-crafting’ to shape physical, cognitive and/or relational boundaries of the job with the intention to satisfy needs, manage demands or gain resources: De Bloom et al., 2020); and (d) pro-social behaviour (e.g. seeking and offering support, nurturing collegial connection: Bolino & Grant, 2016). The positivity expressed by the judicial thrivers in our study suggests that these activities also enhance wellbeing in the judicial context.

This analysis suggests that judicial wellbeing is best characterised as a shared responsibility between the courts as workplaces (with judicial leaders driving court-level interventions) and individual judicial officers. This is another matter upon which the data of our study meet the weight of existing evidence. The collective conclusion of empirical research on job stress and employee health conducted over the past 25 years is that occupational wellbeing is due to a combination of: (a) individual workplace factors; (b) interpersonal and teamwork factors; (c) leadership factors; and (d) individual behaviour factors (see Sonnentag et al., 2022, for an excellent review) – all of

which can be supported or undermined by the actions of both managers and workers. Leaders have a particular responsibility to monitor workloads and working conditions, implement appropriate initiatives and shape organisational culture, but individuals have a responsibility to proactively manage their wellbeing, avail themselves of organisational supports and contribute to a culture of civility and relatedness. Our study demonstrates that judicial officers' subjective experiences of both stress and satisfaction are linked to their perceptions of their work and working environment, their leaders and their own behaviour.

### ***Limitations and future research***

When considering the implications and limitations of this study, it is critical to highlight the passage of time between data collection (2016–2017) and publication (2024). In these intervening years, much has occurred both within the participating courts and in the national and international judicial wellbeing conversation. Without identifying the five courts of our study, it can be reported that, since the interviews were conducted, they have all undergone significant changes to judicial membership, leadership and internal systems. In that time, Australia has also suffered the tragic loss of three serving judicial officers to suicide (Coroners Court of Victoria, 2020a, 2020b; Richardson, 2020), which has brought new and urgent focus to the question of judicial welfare in Australia. Furthermore, the COVID-19 pandemic dramatically altered the working lives of judicial officers globally, introducing new stressors and unprecedented changes to work practices. Given these significant contextual changes, it is not possible to conclude that the themes and detail of the current study would still hold for the five participating courts, let alone for other Australian and international jurisdictions. As with all qualitative research, it represents a moment in time and a particular place. Longitudinal, national and international research is required to determine the stability and generalisability

of the findings and the efficacy of any interventions already implemented within courts.

Another limitation of the current study is the potentially relevant factors that were not directly explored. While our interviews were in-depth and open-ended, we did not specifically inquire about personal circumstances (such as family situation or mental health status) or individual differences (such as personality, coping style, locus of control or personal history). Especially with the themes and conclusions relating to judicial thrivers, it must be considered that these factors may have contributed to their expressed positivity and enduring job satisfaction, alongside their proactive wellbeing behaviours and healthy attitudes towards stress. Future research could seek to understand how individual characteristics, circumstances and histories shape judicial officers' subjective experiences of stress and wellbeing.

Finally, our study has qualitatively identified perceived sources of stress and satisfaction in judicial work, as well as individual management strategies and ideas for court responses. Future research could empirically test the validity and relative importance of these ideas by correlating them with objective measures. For example, the frequency of exposure to perceived judicial stressors identified in our study could be quantified and correlated with validated measures of stress and mental ill-health. Such research would not only confirm the accuracy of judicial officers' self-perceptions; it would highlight the particular aspects of judicial work that give rise to the greatest stress and, thus, those most needing to be addressed. In a similar way, any systemic wellbeing interventions implemented by courts could be robustly evaluated by comparing validly measured levels of judicial stress pre- and post-intervention.

### **Conclusion**

In this article, the findings of the third study arising from Australia's first empirical and psychologically grounded research project on judicial stress and wellbeing have been

presented and considered, reporting the themes arising from the qualitative analysis of 59 in-depth judicial interviews, representing the largest scale interview study of judicial stress ever conducted. In response to the two broad research questions – (RQ1) How do judges and magistrates experience and manage stress within their roles?; and (RQ2) How might courts better support the wellbeing of judicial officers? – the study uncovered eight broad themes, which together highlight the centrality of workload, leadership, cultural stigma and perceptions of unfairness to the judicial stress experience, and underscore the urgent need for systemic action to support judicial wellbeing. In some cases, these themes corroborate existing knowledge about the working lives of judicial officers, or indicate that established learnings from the broader field of occupational stress and wellbeing apply equally to the judiciary. In other cases, they reveal novel insights into the lived experience of judging, including the particular challenges confronted by judicial leaders and those in the middle years. Although further research is needed to determine whether these themes hold across time and jurisdiction, and whether the perceived sources of stress are in fact correlated with judicial stress levels, this study has delivered a rich and candid picture of how occupational stress impacts the subjective wellbeing and working lives of judicial officers, providing an evidence-base for credible and targeted responses within courts.

## Notes

1. Suggestions ranged from monthly to twice-yearly.
2. As outlined in the Method, interviews were conducted with 61 judicial officers. Audio-recordings of two interviews were lost due to file corruption, leaving 59 interview transcripts for qualitative analysis.

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five participating courts for their support for the research project. We also thank the judges and magistrates who participated in the study.

## Ethical standards

### *Declaration of conflicts of interest*

Carly Schrever has declared no conflicts of interest

Carol Hulbert has declared no conflicts of interest

Tania Sourdin has declared no conflicts of interest

### *Ethical approval*

All procedures performed in the study involving human participants were in accordance with the ethical standards of the Justice Human Research Ethics Committee (JHREC Approval Number: CF/16/2871) and the University of Melbourne Human Research Ethics Committee (Ethics ID: 1646836), and with the 1964 Helsinki declaration and its later amendments or comparable ethical standards.

### *Informed consent*

Informed consent was obtained from the Heads of the participating jurisdictions and all individual participants included in the study.

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## Appendix

### Interview questions

1. What do you see as being the major sources of stress in the judicial role?
  - a. Are the sources of stress different at different stages post-appointment?

- b. Do you think the sources of stress are changing over time? Increasing or decreasing?
  - c. How do the sources of stress in judicial life compare to the sources of stress in your previous career?
  - d. Are there sources of stress that seem *unavoidable* (i.e. par for the course of being a judicial officer)?
  - e. Are there sources of stress that seem *unnecessary* (i.e. sources of stress that you believe could be alleviated or removed through personal, organisational or systemic changes)?
2. What do you see as being the major sources of personal satisfaction in the judicial role?
    - a. Do you feel that the sources of personal satisfaction compensate or offset the sources of stress in the judicial role?
  3. Thinking about the sources of stress that you have identified, is there one experience that stands out as particularly notable?
  4. What for you are the signs that you are experiencing work-related stress?
    - a. What does it feel like? [PROMPT]
- b. What kinds of things become more difficult when stressed?
5. How do you know when you are experiencing a worrisome level of stress?
  6. What sorts of things have you typically done to manage stress over the course of your career?
    - a. What kinds of things help your return to equilibrium?
    - b. What kinds of things hinder your return to equilibrium?
  7. Have you participated in any organised judicial wellbeing initiatives (e.g. education programs)? What, if any, was the benefit of these?
  8. If money were no object, what wellbeing programs and interventions that might better support judicial officers would you like to see?
    - a. What might be the most effective way to engage judicial officers in wellbeing programs and initiatives?
    - b. What might get in the way of such programs/interventions being successful (i.e. well received; successful at reducing stress)?
  9. Any other thoughts or ideas?