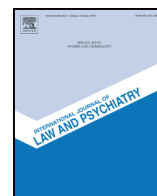




Contents lists available at ScienceDirect

International Journal of Law and Psychiatry



Problem signs in law school: Fostering attorney well-being early in professional training

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ARTICLE INFO

Available online xxxx

Keywords:

Law school
Attorney mental health
Stress

ABSTRACT

Attorneys suffer from high rates of stress, alcoholism, and mental health problems that are costly for the legal system and impair their abilities to serve their clients. There is some indication that these problems begin in law school. The present study assessed a cohort of law students at an American law school for their reported levels of stress, depression, anxiety, substance use, and overall adjustment/coping. Findings indicate that law students suffer from high levels of stress, anxiety, depression, and alcohol use, and that these problem behaviors fluctuate throughout the course of law school. We discuss the implications for law student/lawyer well-being and legal education.

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1. Introduction

The legal community has expressed increased concern regarding high rates of stress, alcoholism, and mental health problems for attorneys that may impair their abilities to serve their clients (e.g., ABA, 1991). In fact, attorneys suffer from significantly higher rates of stress, depression, substance abuse, marital/family problems, and job burnout than the general adult and professional populations, with significant detrimental consequences for their well-being (e.g. Daicoff, 2004, Elwork, 2007, Krieger, 2002, Schiltz, 1999). Attorney distress¹ can have psychopathological ramifications, and these problems, which account for the majority of disciplinary proceedings against attorneys, can be extremely costly for the legal system (Daicoff, 2004). It is therefore important to determine when attorney distress begins. By examining distress during law school, we can better understand how law school affects students' well-being and its implications for later professional performance.

1.1. Mental health problems and alcohol/drug use

Although the data are mostly dated and may not reflect the current profession, past research has found that general psychological distress rates are higher for attorneys than the general population (Beck, Sales, & Benjamin, 1995). For instance, attorneys report higher rates of specific psychological disorders, such as depression, than the general population. Although estimates vary across studies, 7.1% of the general population

reports experiencing a major depressive disorder within the last 12 months (Kessler, Petukhova, Sampson, Zaslavsky, & Wittchen, 2012), whereas rates of depression are at least three times greater for attorneys (Weiss, 2007). One reason for increased psychological distress could be employment as a professional; however, research comparing attorneys to other professionals (e.g., physicians) has found that attorneys are 70% more likely to report depression than other professionals (Weiss, 2007).

In addition to higher prevalence rates of mental health problems, attorneys also report higher rates of alcohol and drug use than the general population. Although 4.65% of adults suffer from alcohol abuse (Grant et al., 2004), the rate is twice as high for the attorney population (Weiss, 2007). In fact, a survey of Washington state attorneys indicated that 18% reported suffering from alcohol abuse during their first 20 years of practice, and 25% of lawyers who practice 20 years or more reported having a drinking problem (Benjamin, Darling, & Sales, 1990). Attorneys also report problematic alcohol consumption, with 13% of attorneys in the same sample reporting binge drinking daily (Benjamin et al., 1990). For men, binge drinking consists of drinking five or more drinks in a 2-h period; for women, binge drinking is drinking four or more drinks in 2 h (NIAAA, 2004). Similar rates of problematic alcohol use were reported by Arizona attorneys (Benjamin et al., 1990) and Wisconsin attorneys (Kozich, 1988). Attorneys have also reported experimenting with cocaine, psychedelic drugs, tranquilizers, and barbiturates at rates higher than the general population (Burman, 1997).

1.2. Consequences of attorney distress

Attorney distress may have serious consequences for the legal profession in terms of ethical violations and disciplinary actions (Rehquist, 1988; Rothstein, 2008). Although it is difficult to determine how many ethical violations involve attorney distress due to lack of

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¹ “Distress” is a term that encompasses the combined emotions of unhappiness, stress, and dissatisfaction. Because there is no agreed upon definition of attorney distress, the term is used colloquially rather than in a technical clinical sense. However, some of the measures we employ do have precise clinical definitions, as we discuss *infra*.

reporting, at least 25% of disciplinary proceedings are associated with an attorney's alcoholism or other mental illness (Robinson, 2010). A study of 100 attorneys in Oregon, who entered lawyer assistance programs for drug or alcohol abuse, found that 60% of the attorneys had been a subject of a malpractice suit (Muchogrosso, 1981). Actual figures are likely much higher, not only because mental health problems are often kept secret, but also because the majority of bar associations investigating malpractice claims do not determine the cause of infractions (Benjamin, Sales, & Darling, 1992).

Although most of the research on binge drinking focuses on college students (for a review, see Perkins, 2002), it is likely that these findings translate to law students who tend to be similar in age and cohort to college students (Dustman & Handwerk, 2010). Binge drinking even once is correlated with negative academic consequences, such as lower GPA and greater absences (Engs, Diebold, & Hanson, 1996; Wechsler, Dowdall, Maenner, Gledhill-Hoyt, & Lee, 1998). Furthermore, students who binge drink may experience additional non-academic consequences such as risky sexual behavior or sexual violence (Abbey, 2002; Abbey, Zawacki, Buck, Clinton, & McAuslan, 2001; Cooper, 2002; Poulson, Eppler, Satterwhite, Wuensch, & Bass, 1998; Ullman, 2003; Wechsler et al., 1998). Of potential concern for attorneys is the relationship between binge drinking behaviors and increased likelihood to drive under the influence; binge drinkers are fourteen times more likely to drive under the influence than people who do not binge drink (Engs et al., 1996; Hingson, Zha, & Weitzman, 2009; Naimi et al., 2003; Wechsler et al., 1998).

1.3. Etiology of distress in law school

Although the underlying causes of attorney distress are multifaceted, there is a concern that many of the precipitating factors begin during law school. Law school is associated with several potential sources of distress because of the structure and process inherent to many law schools, including the competitive nature of law school, a demanding workload, and personal or professional transitions (Elwork, 2007; Krieger, 2002; Krieger & Sheldon, 2004; Reed & Bornstein, 2013). Law students are often required to compete with one another for grades, honors (e.g., law review, moot court, honor society), summer clerkships, and jobs after graduation. Furthermore, characteristics of other students, such as competitiveness and aggression, can add to law student distress (Stevens, 1973).

There is some indication that psychological distress (Benjamin, Kaszniak, Sales, & Shanfield, 1986) may start during law school. For example, Benjamin et al. (1986) surveyed 320 law students and alumni from the University of Arizona Law School. Researchers had participants complete the Brief Symptom Inventory (BSI), which measures nine dimensions of distress; the Beck Depression Inventory (BDI), which measures the level of depression; the Multiple Affect Adjective Checklist (MAACL), which measures anxiety, hostility, and depression; and several demographic questions. The researchers followed three groups of students over 4 years. Cohort 1 consisted of students assessed three times—in the fall of their first year, spring of their first year, and spring of their third year. Cohort 2 consisted of students assessed twice—in the spring of their third year and the spring 2 years after graduation. Cohort 3 consisted of students assessed twice—in the summer before they started law school and in the spring of their first year.

Analyses within cohorts indicated that entering law students reported experiencing fewer and less severe symptoms related to distress than during their first (1L) and third (3L) years of law school. Thus, although results on the measures for entering students fell within normal limits, their scores increased by at least two standard deviations by the spring of their 1L year. Symptoms appeared to develop within the first few months of the 1L year and did not change significantly during the first year. However, symptoms increased significantly as students progressed, with 3Ls reporting more depression and hostility than second year law students (2Ls). In fact, 3% to 9% of entering law students

reported experiencing high levels of depression, similar to the general population. In the spring of the 1L year, 32% of students reported higher levels of depression. By spring of the 3L year, 40% of students reported higher levels of depression. Results indicated that 3Ls were not significantly different from alumni, suggesting that elevated symptom levels do not lessen significantly during the first 2 years of legal practice. Although Benjamin et al.'s (1986) data are nearly 30 years old, the study nonetheless suggests that law school can be a significant source of distress.

In addition to psychological distress, alcohol and drug abuse may begin during law school (Burman, 1997; Daicoff, 2004). In a survey of practicing attorneys in Washington and Arizona, many attorneys indicated that they initially became concerned about their own alcohol use during law school (Benjamin et al., 1990). While only 8% of attorneys indicated they had been concerned about their alcohol use prior to entering law school, the rate increased over time with 15% being concerned as 1Ls, 25% being concerned as 3Ls, and 26% being concerned after graduation (Benjamin et al., 1990). Burman (1997) emphasized that alcohol problems may begin during law school because law school culture is pervaded by alcohol use. Surveys of law students across the country indicate that alcohol use is severe and pervasive in law school and that alcohol is a major part of social activities (e.g., University of Wyoming School of Law, 1995).

The frequency of mental health and substance use problems is likely to have changed since these previous studies were conducted, although not necessarily for the better. The legal profession as a whole has changed dramatically in the past few decades, including changes in technology and the associated expectations (e.g., being available by e-mail), globalization, increased focus on alternative dispute resolution, and the shifting roles of attorneys (Janis, 2014). Perhaps even more important for potential attorney distress are the changes in the economy and job market since the previous studies were done. In 1990, there were nearly 756,000 practicing attorneys, with the number spiking to 1,180,386 practicing attorneys in 2009 (ABA, 2013). However, following the recession of 2008–2009, firms began to eliminate positions *en masse* (Cohen, 2013; Dilloff, 2011). The number of practicing attorneys dropped by over 22,000 from 2009 to 2010, and big law firms alone reported laying off 12,000 attorneys (Weiss, 2010).

Despite the elimination of legal jobs, the number of applicants to law school during this time increased. In 2007, prior to the recession, 84,000 people applied to law school, and by 2010, there were 87,900 applicants (Legal School Admissions Council, 2010). The trend has subsequently reversed somewhat, with only 68,000 people applying to law school in 2012 (Legal School Admissions Council, 2010). Nonetheless, due to a decrease in the number of law-related jobs and the increase in the number of applicants, law school graduates are having a more difficult time finding jobs upon graduation. In 2007, 91.2% of law graduates found legal careers, but by 2009, the rate had dropped to 65.4% of graduates (Cohen, 2013). Even graduates who are able to find law-related jobs often struggle because the median starting salary (adjusted for inflation) has decreased over time. In 2009, the median starting salary was \$72,000, which dropped to \$60,000 in 2011 (adjusted for inflation). Meanwhile, the cost of law school (and therefore student debt) is rising substantially (ABA Task Force on Legal Education, 2013). On average, students accumulate \$100,000 in debt from paying for law school, and this debt is typically not dischargeable in bankruptcy (Cohen, 2013). Changes in the legal field make it important to understand how distress is affecting law student well-being currently.

2. Methods

Although law student stress, depression, substance use, and other mental health issues have the potential to cause costly problems for the legal system, data regarding this issue are limited and dated. Furthermore, previous studies addressing mental health and problem behaviors in law school did not measure well-being. There is a close

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