
The Psychological Impact of Judicial Work: Australia's First Empirical Research Measuring Judicial Stress and Wellbeing

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This article presents the methodology and primary quantitative analysis of Australia's first empirical research measuring judicial stress and wellbeing. The findings arise from the survey of 152 judges and magistrates from five Australian courts. Using standardised and validated psychometric instruments for a broad range of stress constructs, the survey robustly explored the varying ways in which stress in judicial office can manifest, allowing comparisons with the Australian legal profession and general population. The results suggest that, like lawyers, judges and magistrates report elevated psychological distress and problematic alcohol use, and that symptoms of burnout and secondary trauma are prominent features of the judicial stress experience. However, unlike the broader legal profession, judicial officers' rates of depressive and anxious symptoms are relatively low. Together, the findings reveal a judicial system not yet in mental health crisis, but under considerable stress. The implications of the findings and areas for future research are discussed.

INTRODUCTION

A central feature of a well-functioning democracy is a well-functioning judiciary. As the third arm of government, the judiciary and courts provide an essential check on executive power and require judges to model the highest standards of integrity and ethical behaviour expected in civil society. As guardians of the rule of law, they do more than simply adjudicate and determine disputes; in their role they must do so while maintaining transparency and independence, and intervening to protect the rights of minorities and individuals. Australia is fortunate to have a strong and independent judiciary, whose robust culture has been forged over centuries of British and Australian common law. Notwithstanding this solid cultural framework, it remains (and thankfully so) a fundamentally *human* system, dependent upon the faculties and capacities of the human beings appointed to judicial office. This human capital is a precious national resource and, therefore, the wellbeing of our judicial officers is an important community concern.

Despite its importance, judicial wellbeing has not received the same research attention as the wellbeing of lawyers and law students.¹ Alongside a large and growing body of international research revealing alarmingly high rates of depression and anxiety within the legal profession,² sits a much smaller collection

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¹ Jared Chamberlain and James T Richardson, "Judicial Stress: A Topic in Need of Research" in Monica K Miller and Brian H Bornstein (eds), *Stress, Trauma, and Wellbeing in the Legal System* (OUP, 2013) 269.

² For a summary of Australian research on stress within the legal profession, see Christine Parker, "The 'Moral Panic' Over Psychological Wellbeing in the Legal Profession: A Personal or Political Ethical Response" (2014) 37(3) *UNSW Law Journal* 1103.



of studies relating to judges,³ none of which were conducted in Australia.⁴ As senior members of a stress-prone profession,⁵ managing workloads bordering on the oppressive,⁶ in the context of professional isolation,⁷ intense scrutiny⁸ and often highly traumatic material,⁹ there is good reason to expect that judicial officers are at particular risk of work-related stress. Given the impact of judicial decisions on people's lives, and the pivotal role they play in our democratic system, courts arguably have a duty, not only to individual judges, but to the community more generally, to investigate and promote judicial wellbeing.

In a number of previous papers, it has been suggested that robust empirical research into work-related stress among the Australian judiciary is required.¹⁰ This research was undertaken to meet that identified gap and to consider how judicial stress can be characterised, quantified and, where required, addressed. This article sets out the methodology used in this groundbreaking research and presents the primary quantitative analysis of the survey data. Forthcoming articles will present the qualitative data arising from 60 interviews with judicial officers, the secondary analysis of the quantitative data, and consider possible responses to judicial stress. This article is in four parts. Part I sets out the methodology used and describes the sample of participating judicial officers. Part II provides commentary relating to the measurement instruments used in the survey. Part III analyses the primary survey data, with reference to outcomes in previous studies relating to lawyers and other professional groups. Part IV discusses the implications of the findings, the strengths and limitations of the study, and areas for future research.

³ At the time of writing, there are believed to be no more than 15 published studies worldwide purporting to systematically examine judicial stress: C Robert Showalter and Daniel A Martell, "Personality, Stress and Health in American Judges" (1985) 69(2) *Judicature* 82; Joy M Rogers, Stanley JJ Freeman and Patrick LeSage, "The Occupational Stress of Judges" (1991) 36(5) *Canadian Journal of Psychiatry* 317; Tracy D Eells and C Robert Showalter, "Work-Related Stress in American Trial Judges" (1994) 22(1) *Bulletin of the American Academy of Psychiatry and the Law* 71; Corey Graff, "Stress Management: Controlling the Hidden Stalker Within the Immigration Courts" (National Centre for State Courts, 8 February 2000) <<https://ncsc.contentdm.oclc.org/digital/collection/hr/id/66/>>; Peter G Jaffe et al, "Vicarious Trauma in Judges: The Personal Challenge of Dispensing Justice" (2003) Fall *Juvenile and Family Court Journal* 1; David M Flores et al, "Judges Perspectives on Stress and Safety in the Courtroom: An Exploratory Study" (2008) 45 *Court Review* 45, 76; Jared Chamberlain and Monica K Miller, "Evidence of Secondary Traumatic Stress, Safety Concerns, and Burnout Among a Homogenous Group of Judges in a Single Jurisdiction" (2009) 37 *Journal of the American Academy of Psychiatry and the Law* 214; Stuart L Lustig et al, "Burnout and Stress Among United States Immigration Judges" (2008) 13 *Bender's Immigration Bulletin* 22; Stuart L Lustig et al, "Inside the Judges' Chambers: Narrative Responses from the National Association of Immigration Judges Stress and Burnout Survey" (2008) 23 *Georgetown Immigration Law Journal* 57; Monica S Ciocoiu, Mirela Cojocaru and SV Ciocoiu, "Implications of Levels of Stress Factors in the Magistrate's Activity" (2010) 15(3) *Romanian Biotechnical Letters* 126; Monica S Ciocoiu, Mirela Cojocaru and SV Ciocoiu, "Stress Related Manifestations Regarding Magistrates" (2010) 15(3) *Romanian Biotechnical Letters* 134; Feng-Jen Tsai and Chang-Chuan Chan, "Occupational Stress and Burnout of Judges and Procurators" (2010) 83 *International Archives of Occupational and Environmental Health* 133; Alexis Resnick, Karen A Myatt and Priscilla V Marotta, "Surviving Bench Stress" (2011) July *Family Court Review* 610; Lawrence S Krieger and Kennon M Sheldon, "What Makes Lawyers Happy? A Data-Driven Prescription to Redefine Professional Success" (2015) 83(2) *George Washington Law Review* 554; Monica K Miller et al, "Judicial Stress: The Roles of Gender and Social Support" (2018) 25(4) *Psychiatry, Psychology and Law* 602.

⁴ Extensive, high-quality research has been conducted in Australia on the judicial *experience*, looking at judicial workload, work-practices and job satisfaction. This research, conducted principally by Emerita Professor Kathy Mack and Professor Sharyn Roach Anleu from Flinders University, is closely related to judicial wellbeing, and has greatly informed the present research. See, eg, Kathy Mack, Anne Wallace and Sharyn Roach Anleu, "Judicial Workload: Time, Tasks and Work Organisation" (Australasian Institute of Judicial Administration, 2012).

⁵ Chamberlain and Richardson, n 1; Jared Chamberlain and Monica K Miller, "Stress in the Courtroom: Call for Research" (2008) 15(2) *Psychiatry, Psychology and Law* 237.

⁶ Justice Michael D Kirby, "Judicial Stress: An Unmentionable Topic" (1995) 13 *Australian Bar Review* 101, 106.

⁷ Isiah M Zimmerman, "Isolation in the Judicial Career" (2000) Winter *Court Review* 4.

⁸ Resnick, Myatt and Marotta, n 3, 610–611.

⁹ See, eg, Jaffe et al, n 3.

¹⁰ Carly Schrever, "Judge Stress" (2015) September *Law Institute Journal* 29; Carly Schrever, "Current Issues: Australia's First Research Measuring Judicial Stress and Wellbeing: A Preview of the Findings" (2018) 92 ALJ 885, 859.

I. METHODOLOGY

A. Research Design and Aims

This was an exploratory, mixed-methods study. The research aims were to explore the nature, prevalence, severity and sources of judicial stress in Australia.

B. Approval and Support

Support from Heads of Jurisdiction was essential to the viability of the study. Five courts, from summary to appellate level, were identified as possible participant jurisdictions. Informal consultations with each of the five Heads of Jurisdiction indicated that safeguarding confidentiality and anonymity of both the individual participants and the courts was a key concern. In light of this, formal support was sought and granted from the five Heads of Jurisdiction on the basis that neither the names of the courts nor their geographical locations would be reported. Also in principle and in kind support was extended from the Judicial College of Victoria and the Australasian Institute of Judicial Administration. Subsequently, approval to conduct the research was granted from the Human Research Ethics Committees for the University of Melbourne and the participating courts.

C. Recruitment Methodology

With the support of the Heads of the five participating jurisdictions, the researcher delivered a presentation on “Judicial Stress and Wellbeing” at each of the courts’ internal judicial conferences. These took place between July 2016 and April 2017. The presentation set out the rationale for empirical research into judicial wellbeing, and explained the aims and methodology of the current research project. During the presentation, printed copies of the survey were distributed, together with stamped envelopes addressed to a secure post office box. To reach judicial officers who were not present at the conferences, and to provide an alternative means of survey completion, a follow-up email was sent the next day to all judicial officers of the relevant court with a link to an electronic version of the survey hosted on Qualtrics – a secure online survey platform. A participant information sheet and consent form accompanied both versions of the survey. Participation was voluntary and anonymous.

The study involved three stages, with participants invited to participate in one, two or all three stages. The first stage was a short survey (Part 1), taking 10–15 minutes to complete, relating to stress symptoms and experiences, and involved the collection of some limited demographic information (see below for details of survey contents). The second stage involved a longer survey (Part 2), taking 15–20 minutes to complete, relating to mental health literacy, burnout, secondary trauma and alcohol use. The third stage comprised an in-depth semi-structured interview, taking 40–60 minutes, relating to particular experiences of work-related stress, the major sources of judicial stress, and ideas for programs and initiatives to reduce judicial stress. At the completion of each stage, participants were invited to “opt in” to the next stage or to decline further participation in the study. To opt in to a third stage interview, participants provided their contact details by completing a form and returning it in a separate envelope from their completed survey, thereby preserving the anonymity of the survey responses. Participants were offered the opportunity to opt in to receive personalised feedback regarding their responses to the survey measures by providing their email address at the end of the survey.

The rationale for the staged recruitment approach was to balance the competing aims of maximising sample size and optimising data richness. In the knowledge of judicial officers’ general “time poverty”, it was anticipated that a shorter survey would attract greater voluntary participation than a longer survey. However, in order to collect data on additional relevant measures, the longer survey was retained as an option for those judicial officers prepared to dedicate the additional time.

The rationale for offering personalised feedback was to balance another pair of competing considerations – anonymity of survey completion, and notifying and supporting participants when scores indicated psychological distress. Given the survey included several widely used screening tools for mental health concerns, scores in the very high ranges could warrant further investigation and possibly supportive intervention. However, the provision of such support was dependent upon being able to contact the

relevant participants and, therefore, incompatible with participant anonymity. In order to reconcile these competing concerns, participants had the option to voluntarily forsake their anonymity by providing an email address in order to receive a personalised feedback report on their survey scores. Seventy-three participants (48%) took up this option. The report, which was emailed as a password-protected document, set out several options for independent and confidential psychological support, and recommended accessing such support if any scores were in the high or severe range.

The survey was closed in May 2017. Hardcopy and online survey data were entered into the Software Package for the Social Sciences (SPSS) by an independent research assistant and checked by the researcher prior to analysis.

D. The Sample

Five Australian courts, from summary to appellate level, participated in the study. From these courts, 152 judicial officers participated in Part 1 of the survey.¹¹ Of these, 125 went on to complete Part 2 of the survey, and 60 participated in in-depth interviews. Table 1 sets out the sample size according to jurisdiction, gender, age, stage of career and main area of practice. Participants' average age was 57.8 years (range = 38–71; standard deviation = 6.9) and average length of service was 9.5 years (range = .2–30; standard deviation = 6.6).

TABLE 1. Sample Size and Composition by Demographic Variables

Demographic Variable	Sample Size: <i>n</i> (%)		
	Survey		Interviews
	Part 1 (<i>n</i> = 152)	Both Parts (<i>n</i> = 125)	(<i>n</i> = 60)
Jurisdiction			
Summary	84 (55.3%)	68 (54.4%)	30 (50.0%)
Intermediate	34 (22.4%)	31 (24.8%)	18 (30.0%)
Superior	34 (22.2%)	26 (20.8%)	12 (20.0%)
Gender			
Female	66 (43.4%)	59 (47.2%)	36 (60.0%)
Male	86 (56.6%)	66 (52.8%)	24 (40.0%)
Age (Years)			
<50	20 (13.2%)	15 (12.0%)	*
50–59	60 (39.5%)	48 (38.4%)	*
60–69	67 (44.1%)	59 (47.2%)	*
>70	5 (3.3%)	3 (2.4%)	*
Years Since Appointment			
<2	21 (13.8%)	13 (10.4%)	*
2–5	20 (13.2%)	17 (13.6%)	*
5–10	63 (41.4%)	53 (42.4%)	*
10–15	26 (17.1%)	22 (17.6%)	*
15–20	10 (6.6%)	9 (7.2%)	*
>20	12 (7.9%)	11 (8.8%)	*

¹¹ There were 164 surveys returned at the close of the survey. Nine did not have completed demographic data, and were therefore removed from the analysis, leaving a total of 152 valid responses to Part 1 of the survey.

Demographic Variable	Sample Size: <i>n</i> (%)		
	Survey		Interviews
	Part 1 (<i>n</i> = 152)	Both Parts (<i>n</i> = 125)	(<i>n</i> = 60)
Main Area of Practice			
Crime or Coronial	89 (58.6%)	73 (58.4%)	*
Combination	35 (23.0%)	29 (23.2%)	*
Civil or Commercial	28 (18.4%)	23 (18.4%)	*
Total	152 (100%)	125 (82.2%)	60 (39.5%)

Note: * This demographic data was not collected for interviewees.

As explained above, approval for the research project was obtained on the basis that neither the names nor geographical locations of the participating courts would be reported. It is not possible to report specific response rates according to these demographic variables without risking identification of the courts involved; however, two important points can be made. First, within each of the five participating courts the response rates were very strong, varying between 51% and 85%, and averaging 67%. That is, of the judicial officers to whom the survey was distributed, 67% responded by completing at least Part 1. Second, the sample was, with one exception, broadly representative across the five demographic variables measured. The exception was that female judicial officers were significantly over-represented among those who chose to participate in an interview: women comprised 43.4% of survey respondents, but 60% of interviewees. The interview data therefore will need to be interpreted with this in mind.

E. The Survey

In constructing the survey, much thought was given to the choice of both psychological constructs to be measured and psychometric instruments by which to measure them. The term “psychological construct” arises from the field of empirical psychology and refers to psychological phenomena and experiences one may want to measure and analyse, but are not directly observable – for example, intelligence, happiness and stress. “Psychometric instruments” are the questionnaires, scales, tests and tasks that have been scientifically developed to validly and reliably measure different psychological constructs. While “stress” and “wellbeing” are psychological constructs in their own right, their conceptual breadth is such that they could more accurately be described as psychological categories comprising a broad range of qualitatively different psychological experiences, each of which would be defined and measured differently.

In the current study, the following principles guided the choice of psychological constructs and psychometric instruments:

- Was there a strong theory-driven basis for expecting that the construct may be a prominent feature of the judicial experience?
- Was the construct measured in research relating to lawyer stress?
- Did the instrument have strong “face validity” (ie did the questions and items sufficiently translate to the judicial context)?
- Did the instrument have robust psychometric properties (ie had it been validated, standardised, and found to have good reliability)?
- Was the instrument used in other relevant judicial or lawyer stress research?

The application of these principles, and the piloting of a draft survey in May 2016 with a group of 14 retired judicial offices, lead to the inclusion of the constructs and instruments set out in Table 2. These are briefly described in detail in Part II below.

TABLE 2. Survey Contents and Structure

Psychological Construct	Psychometric Instrument	Number of Items
Part 1 – Short Survey		
Perceived stress and satisfaction	N/A (Questions developed by researcher)	3
Basic psychological needs satisfaction	Basic Psychological Needs Satisfaction at Work Scale (BPNSW Scale) ^A	24
Non-specific psychological distress	Kessler 10 (K-10) ^B	10
Depressive and anxious symptoms	Depression, Anxiety and Stress Scales 21 (DASS-21) ^C	21
General reflections on the stress of judicial office	N/A (Open question with free-text response)	1
Demographics	N/A (Questions developed by researcher)	7
Part 2 – Longer Survey		
Mental health literacy and attitudes to help-seeking	International Depression Literacy Survey (IDLS) ^D	27
Burnout	Maslach Burnout Inventory – General Scale (MBI-GS) ^E	16
Secondary traumatic stress	Secondary Traumatic Stress Scale (STSS) ^F	17
Alcohol use and dependence	Alcohol Use Disorders Identification Test (AUDIT) ^G	10

Notes:

^A Barbara C Ilardi et al, “Employee and Supervisor Ratings of Motivation: Main Effects and Discrepancies Associated with Job Satisfaction and Adjustment in a Factory Setting” (1993) 23(21) *Journal of Applied Social Psychology* 1789; Tim Kasser, Jack Davey and Richard M Ryan, “Motivation and Employee-Supervisor Discrepancies in Psychiatric Vocational Rehabilitation Setting” (1992) 37(3) *Rehabilitation Psychology* 175; Edward L Deci et al, “Need Satisfaction, Motivation, and Well-Being in the Work Organisations of a Former Easter Bloc Country: A Cross-Cultural Study of Self-Determination” (2001) 27(8) *Personality and Social Psychology Bulletin* 930.

^B RC Kessler et al, “Short Screening Scales to Monitor Population Prevalences and Trends in Non-Specific Psychological Distress” (2002) 32 *Psychological Medicine* 959.

^C PF Lovibond and SH Lovibond, “The Structure of Negative Emotional States: Comparison of the Depression Anxiety Stress Scales (DASS) with the Beck Depression Inventories” (1995) 33(3) *Behaviour Research and Therapy* 335.

^D Nicole J Highet, Ian B Hickie and Tracey A Davenport, “Monitoring Awareness of and Attitudes to Depression in Australia” (2002) 176 *Medical Journal of Australia* S63.

^E Wilmar B Schaufeli et al, “MBI General Survey” (1996) (available for purchase from <www.mindgarden.com>); Wilmar B Schaufeli, Michael P Leiter and R Kalimo, “The Maslach Burnout Inventory – General Survey: A Self-Report Questionnaire to Assess Burnout in the Workplace” in MP Leiter (ed), *Extending the Burnout Construct: Reflecting Changing Career Paths* (Symposium, APA/NIOSH Conference, Work, Stress and Health ‘95: Creating a Healthier Workplace, Washington, DC, 1995). Copyright © 1996 Wilmar B Scjaufeli, Michael P Leiter, Christina Maslach and Susan E Jackson. Licence to reproduce in hardcopy and online format granted on 23 June 2016.

^F Brian E Bride et al, “Development and Validation of the Secondary Traumatic Stress Scale” (2004) 14(1) *Research on Social Work Practice* 27.

^G JB Saunders et al, “Development of the Alcohol Use Disorders Identification Test (AUDIT): WHO Collaborative Project on Early Detection of Persons with Harmful Alcohol Consumption II” (1993) 88 *Addiction* 791.

F. The Interviews

Judicial officers who completed both parts of the survey were invited to participate in an in-depth semi-structured interview. Sixty judicial officers accepted this invitation by returning a form with their contact details and signing a consent form at the start of their interview. The interviews were conducted by the

lead researcher in the judicial officers' chambers between November 2016 and July 2017, each lasting approximately one hour. They were audio-recorded and independently transcribed. All identifying information was removed prior to analysis. The interview questions were developed following a review of the literature relating to judicial stress and discussions with research colleagues and several judicial officers regarding the areas of greatest relevance to understanding and responding to judicial occupational stress. The first draft of the questions was developed by the lead researcher for an earlier internal project within one of the participating jurisdictions, and further refined following feedback from that pilot. The final list of nine stem questions, each with several supplementary questions, was framed around four broad topics: experiences of judicial stress; perceived sources of judicial stress and satisfaction; strategies for managing judicial stress; and ideas of initiatives to support judicial wellbeing.

Over the course of conducting the 60 interviews, the researcher noted themes that emerged as prominent and recurring, refining these throughout the interview process. This preliminary observational process yielded six key themes, which provided the initial basis of the formal thematic analysis of interview transcripts. As a further step, the researcher read the interview transcripts, totalling 1,386 pages and over 400,000 words, in full three times. In the first reading, the researcher noted all statements that supported or contradicted the six key themes, also recording other recurring themes. From these, codes were created for each theme. In the second reading, the codes were applied to the relevant passages and colour-coded on the transcript. In the third reading, the colour-coded passages were reviewed for patterns and themes, and names applied to each of the themes. A final review was undertaken, using the Microsoft Word search function, to extract the passages that best illustrated the identified themes.¹²

II. THE SURVEY

A. Part 1 – Short Survey

1. *Perceived Stress and Satisfaction*

Three questions, framed by the researcher, provided an initial measure of judicial officers' perceptions of stress and satisfaction in the role. On a five-point scale, participants were asked: how much of the time they experience "stress" and "personal wellbeing and satisfaction" related to their work (1 = none of the time; 5 = almost all of the time); and how the stress of judicial office compares to their career prior to appointment (1 = much less stressful; 5 = much more stressful).

2. *Basic Psychological Needs Satisfaction*

Much of the recent empirical research on lawyer stress has adopted the framework of Self-Determination Theory¹³ (SDT) as a model for understanding the factors influencing lawyer wellbeing.¹⁴ SDT is a well-established and evidenced-based model of wellbeing, with more than three decades of empirical research behind it.¹⁵ In essence, SDT posits that human wellbeing is a function of the extent to which our basic psychological needs of autonomy, competence and relatedness are met within our environment. Autonomy refers to the experience of self-determination, full willingness, and volition when carrying out an activity.¹⁶ Competence refers to feeling effective and capable to achieve desired outcomes.¹⁷ Relatedness refers to the experience of intimacy and genuine connection with others.¹⁸

¹² A forthcoming article by the present author, C Schrever, will explore these themes in more detail.

¹³ Richard M Ryan and Edward L Deci (eds), "Self-Determination Theory and the Facilitation of Intrinsic Motivation, Social Development, and Well-Being" (2002) 55 *American Psychologist* 68.

¹⁴ See, eg, Krieger and Sheldon, n 3.

¹⁵ Richard M Ryan and Edward L Deci, *Self-determination Theory: Basic Psychological Needs in Motivation, Development and Wellness* (Guilford Publishing, 2017).

¹⁶ Edward L Deci and Richard M Ryan, "The General Causality Orientations Scale: Self-Determination in Personality" (1985) 19 *Journal of Research in Personality* 109.

¹⁷ Richard M Ryan, "Psychological Needs and the Facilitation of Integrative Processes" (1995) 63 *Journal of Personality* 397.

¹⁸ Ryan, n 17.

Dozens of psychometric instruments based on SDT have been developed.¹⁹ The present study adopted the Basic Psychological Needs Satisfaction at Work Scale (BPNSW Scale) – a 24-item, seven-point scale assessing the extent to which participants’ agreed (1 = strongly disagree; 7 = strongly agree) that a series of work-related feelings applied to them over *the past four weeks*. Each of the three factors – autonomy, competence and relatedness – is measured by eight items, generating an average score between 1 and 7 for each factor, and an average overall score, with higher scores indicating greater basic psychological needs satisfaction. Sample items are as follows: for autonomy, “at work, I feel a sense of choice and freedom in the things I undertake”; for competence, “when I am at work, I feel competent to achieve my goals”; for relatedness, “at work, I feel close and connected with other people who are important to me”. Earlier versions of the BPNSW Scale had fewer items (21²⁰ or 15²¹), and have documented construct validity, internal reliability²² and a well-developed factor structure.²³ The internal reliability in the present study was good across the three sub-scales (Cronbach’s alpha coefficients: for autonomy = .83; for relatedness = .85; for competence = .80)

3. Non-Specific Psychological Distress

Non-specific psychological distress, or “ill-being”, was measured using the standardised and widely employed Kessler 10 Scale (K10).²⁴ The K10 is a 10-item, five-point scale assessing how often (1 = none of the time; 5 = all of the time) subjects have experienced 10 symptoms of psychological distress (eg “how often did you feel restless and fidgety”; “how often did you feel that everything was an effort”) in *the past four weeks*. It generates scores within a possible range of 10–50, with higher scores indicating more severe distress. The K10 is a screening tool, not a diagnostic instrument. It provides a broad indication of the risk of mental illness by measuring the severity of generalised psychological distress.²⁵ Excellent normative data exists for the K10, as it was the instrument used by the Australian Bureau of Statistics (ABS) in the 2007 National Survey of Mental Health and Wellbeing and 2007–8 National Health Survey.²⁶ The K10 has also been used in several Australian studies on lawyer and law student wellbeing, including the landmark “Courting the Blues” study.²⁷ Normative data allows for the classification of K10 scores into one of four severity ranges: “low or no distress” (scores of 10–15); “moderate distress” (scores of 16–21); “high distress” (scores of 22–29); “very high distress” (scores of 30–50).²⁸ The K10 has outstanding and well-documented psychometric properties, including content and construct validity and internal reliability.²⁹ In the current study, the internal reliability was found to be strong (Cronbach’s alpha coefficient = .85).

¹⁹ Ryan and Deci, n 15.

²⁰ Edward L Deci et al, “Need Satisfaction, Motivation, and Well-Being in the Work Organisations of a Former Easter Bloc Country: A Cross-Cultural Study of Self-Determination” (2001) 27(8) *Personality and Social Psychology Bulletin* 930.

²¹ Tim Kasser, Jack Davey and Richard M Ryan, “Motivation and Employee–Supervisor Discrepancies in Psychiatric Vocational Rehabilitation Setting” (1992) 37(3) *Rehabilitation Psychology* 175.

²² Kasser, Davey and Ryan, n 21; Deci et al, n 20.

²³ E McAuley, T Duncan and VV Tammen, “Psychometric Properties of the Intrinsic Motivation Inventory in a Competitive Sport Setting: A Confirmatory Factor Analysis” (1987) 60 *Research Quarterly for Exercise and Sport* 48.

²⁴ RC Kessler et al, “Short Screening Scales to Monitor Population Prevalences and Trends in Non-Specific Psychological Distress” (2002) 32 *Psychological Medicine* 959.

²⁵ Gavin Andrews and Tim Slade, “Interpreting Scores on the Kessler Psychological Distress Scale (K10)” (2001) 26(6) *Australian and New Zealand Journal of Public Health* 494, 494.

²⁶ Australian Bureau of Statistics, “Use of the Kessler Psychological Distress Scale in ABS Health Surveys, Australia, 2007–8, National Health Survey 2007–8” (Information Paper, 4817.0.55.001, 4 April 2012).

²⁷ Norm Kelk et al, “Courting the Blues: Attitudes Towards Depression in Australian Law Students and Legal Practitioners” (Monograph, 2009-1, Brain and Mind Research Institute, January 2009) (Courting the Blues Study); Norm Kelk, Sharon Medlow and Ian Hickie, “Distress and Depression Among Australian Law Students: Incidence, Attitudes and the Role of Universities” (2010) 32 *Sydney Law Review* 113; Catherine M Leahy et al, “Distress Levels and Self-Reported Treatment Rates for Medicine, Law, Psychology and Mechanical Engineering Students: Cross-Sectional Study” (2010) 44 *Australian and New Zealand Journal of Psychiatry* 608.

²⁸ Courting the Blues Study, n 27, 9–10; Australian Bureau of Statistics, n 26.

²⁹ Andrews and Slade, n 25.

4. Depressive and Anxious Symptoms

Population mental health research has consistently reported that depression and anxiety are the highest prevalence mental disorders,³⁰ and that the rate and severity of depressive and anxious symptoms are good indications of the level of mental ill-health within a population. In the current study, depressive and anxious symptoms were measured using the Depression Anxiety Stress Scales-21 (DASS-21).³¹ The DASS-21 is not a diagnostic scale, but rather a validated and standardised test of “affective distress symptoms” along the three axes of depression, anxiety and stress. Depression is described as symptoms associated with dysphoric mood, sadness and worthlessness. Anxiety is described as symptoms associated with physical arousal, panic and fear. Stress is described as symptoms of tension, irritability and a tendency to over-react. Separate factors in the DASS-21, the “anxiety” and “stress” sub-scales, measure distinct aspects of anxious symptomatology – the somatic and cognitive aspects, respectively.

The DASS-21 is a 21-item, four-point combined severity/frequency scale, measuring the extent to which participants have experienced a series of symptoms over *the past week* (0 = did not apply to me at all; 3 = applied to be very much or most of the time). Example items across the three sub-scales are as follows: for depression, “I couldn’t seem to experience any positive feeling at all”; for anxiety, “I was aware of dryness of my mouth”; for stress, “I found myself getting agitated”. Total scores for each sub-scale (range 0–21) are obtained by summing the scores for each sub-scale item, with higher scores indicating more severe symptomatology. Percentiles derived from normative data allow for the classification of scores into one of five severity ranges – “normal”, “mild”, “moderate”, “severe” and “extremely severe”.³² The DASS-21 has excellent psychometric properties and normative data,³³ and was employed in the majority of Australian studies into lawyer and law students’ wellbeing,³⁴ as well as numerous studies involving other occupational groups. In the current study, the internal reliability was sound across the three sub-scales (Cronbach’s alpha coefficients: for depression = .87; for anxiety = .78; for stress = .87).

5. General Reflections on Judicial Stress

Participants were given the opportunity to express any other reflections relevant to the study, by providing a free text response to the following question: “Please let us know anything else that would help us understand the personal challenges and rewards of judicial office, and the factors that contribute to both stress and wellbeing in the role.”

6. Demographics

Part 1 of the survey concluded with seven questions about participant demographics: age; gender; years since appointment; jurisdiction; main area of legal practice; location (ie urban, suburban, rural); and living arrangements (eg living alone, living with partner and children etc).

B. Part 2 – Longer Survey

1. Mental Health Literacy and Attitudes to Help-Seeking

Mental health literacy and attitudes to help-seeking were explored using the International Depression Literacy Survey (IDLS),³⁵ a measure developed by Australian researchers and used in the landmark

³⁰ Australian Bureau of Statistics, “National Survey of Mental Health and Wellbeing, 2007” (Summary of Results, Category no 4326.0, 23 October 2008).

³¹ PF Lovibond and SH Lovibond, “The Structure of Negative Emotional States: Comparison of the Depression Anxiety Stress Scales (DASS) with the Beck Depression Inventories” (1995) 33(3) *Behaviour Research and Therapy* 335.

³² Norms are provided by PF Lovibond and SH Lovibond, *Manual for the Depression Anxiety Stress Scales (DASS)* (Psychology Foundation Monograph, 1993) (DASS Manual).

³³ See Timothy A Brown et al, “Psychometric Properties of the Depression Anxiety Stress Scales (DASS) in Clinical Samples” (1997) 35(1) *Behaviour Research and Therapy* 79.

³⁴ See Parker et al, n 2, 1108–1110.

³⁵ Nicole J Highet, Ian B Hickie and Tracey A Davenport, “Monitoring Awareness of and Attitudes to Depression in Australia” (2002) 176 *Medical Journal of Australia* S63.

“Courting the Blues” study.³⁶ Focused specifically on depression, the IDLS comprises questions (some checklists, some Likert scales) relating to knowledge about depression (eg statistics, facts, symptoms), as well as attitudes, awareness and personal experiences.³⁷ Sample questions include: for knowledge, “what proportion of the Australian population will experience depression?”; for awareness, “which of the following [checklist of symptoms] are the most typical of a person with depression?”; for help-seeking attitudes, “if you thought you might be experiencing depression, how likely would you be to seek help from a [GP/psychologist/family member/friend etc]?”. The original version of the IDLS also incorporated several published measures of psychological distress, including the K10 described above, and a number of demographic questions. To avoid duplication, these were excluded in the present study.

Owing to its use in the “Courting the Blues” study, useful normative data on the IDLS is available for the Australian legal profession. It has also been used in several other settings, mostly relating to depression literacy among Chinese and Australian medical students.³⁸ Beyond this, however, information relating to scoring, norms, psychometric properties and interpretation is limited,³⁹ and therefore it cannot currently be used to generate a “depression literacy” score, nor to compare “literacy levels” between different groups. It does, however, probe a number of interesting aspects of mental illness experiences and attitudes, and was included in the present study to extend the “Courting the Blues” research to the judiciary, as the only arm of the legal profession not included in that landmark study.

2. Burnout

The theoretical literature on judicial wellbeing,⁴⁰ including two papers proposing structural models of judicial stress,⁴¹ posits that occupational burnout is a feature of judicial officers’ work-related stress. Burnout is not a diagnosable mental disorder, but rather a psychological phenomenon that has been identified and described within the research literature on occupational stress and since become a prominent field of empirical research. Burnout is broadly defined as “a syndrome of emotional exhaustion, depersonalisation, and reduced personal accomplishment that can occur among individuals who work with people in some capacity”.⁴² Burnout is distinguished from depression and anxiety in that those conditions are global, pervading all aspects of a person’s life, whereas burnout is more distinctly linked to the working environment.⁴³ It is also distinguished from general occupational stress in that it is a “more specific and complex phenomenon that is in contrast to a sense of engagement with work”,⁴⁴ rather than a generalised experience of tension that is contrasted to broad feelings of relaxation and wellbeing.

Two principal psychometric instruments have been developed for measuring burnout: the Maslach Burnout Inventory (MBI),⁴⁵ and the Copenhagen Burnout Inventory (CBI).⁴⁶ Although the CBI was

³⁶ Courting the Blues Study, n 27.

³⁷ Ian B Hickie et al, “The Assessment of Depression Awareness and Help-Seeking Behaviour: Experiences with the International Depression Literacy Survey” (2007) 7 *BMC Psychiatry* 48.

³⁸ Ye Rong et al, “Recognition and Treatment of Depression: A Comparison of Australian and Chinese Medical Students” (2009) 44(8) *Social Psychiatry and Psychiatric Epidemiology* 636; Ye Rong et al, “Improving Knowledge and Attitudes Towards Depression: A Controlled Trial among Chinese Medical Students” (2011) 11 *BMC Psychiatry* 36.

³⁹ Hickie et al, n 37.

⁴⁰ See, eg, Chamberlain and Miller, n 5; Chamberlain and Richardson, n 1.

⁴¹ Monica K Miller and James T Richardson, “Model of Causes and Effects of Judicial Stress” (2006) Fall *Judicature* 20; Tineke Hagen and Stefan Bogaerts, “Work Pressure and Sickness Absenteeism Among Judges” (2014) 21(1) *Psychiatry, Psychology and Law* 92.

⁴² Christine Maslach, Susan E Jackson and Michael P Leiter, *Maslach Burnout Inventory Manual* (Mind Garden, 3rd ed, 2013) 4.

⁴³ Maslach, Jackson and Leiter, n 42, 16; MP Leiter and J Durup, “The Discriminant Validity of Burnout and Depression: A Confirmatory Factor Analytic Study” (1994) 32 *Anxiety, Stress and Coping* 357.

⁴⁴ Maslach, Jackson and Leiter, n 42, 16.

⁴⁵ Christine Maslach and Susan E Jackson, “The Measurement of Experienced Burnout” (1981) 2 *Journal of Occupational Behaviour* 99.

⁴⁶ Tage S Christensen et al, “The Copenhagen Burnout Inventory: A New Tool for the Assessment of Burnout” (2005) 19 *Work & Stress* 192.

used in two previous judicial stress studies, one involving United States (US) immigration judges⁴⁷ and another involving Taiwanese judges,⁴⁸ the MBI since its introduction in the early 1980s⁴⁹ has become accepted as the “gold standard” assessment tool for burnout,⁵⁰ and for this reason was selected for the present study. Several versions of the MBI are available: the General Survey (MBI-GS);⁵¹ the Human Services Survey (MBI-HSS);⁵² and the MBI-Educators Survey.⁵³ The present study adopted the MBI-GS as, of the three, it had the strongest face validity for judicial respondents, and was also the recommended instrument in one seminal article calling for research into judicial stress.⁵⁴

The MBI-GS is a 16-item, seven-point scale measuring the frequency (0 = never; 6 = every day), with *no timeframe imposed*, of certain job-related feelings across the three dimensions of occupational burnout – exhaustion, cynicism and professional efficacy. It differs from the other versions of the MBI in that it de-emphasises “people work” as the cause or origin of the work-related feelings. Exhaustion refers to fatigue and the depletion of emotional and mental energy. Cynicism refers to an attitude of distance or indifference towards one’s work, including a loss of meaning. Professional efficacy refers to satisfaction with past and present accomplishments and expectations of continued effectiveness. Burnout is associated with high exhaustion, high cynicism and low professional efficacy. Sample items are as follows: for exhaustion, “I feel emotionally drained from my work”; for cynicism, “I doubt the significance of my work”; for professional efficacy, “I feel exhilarated when I accomplish something at work”. The MBI-GS is not time-limited but measures the frequency of these feelings over a respondent’s history in their job. The MBI-GS has very good psychometric properties and normative data. The official manual provides cut-offs, based on normative data across a range of cultural and occupational groups, for three severity ranges (“low”, “moderate”, “high”) within each of the sub-scales.⁵⁵ In the present study, the internal reliability was good across the three sub-scales (Cronbach’s alpha coefficients: for exhaustion = .90; for professional efficacy = .79; for cynicism = .86).

3. Secondary Traumatic Stress

Another psychological construct that is much discussed in the commentary on judicial stress is secondary trauma, which broadly refers to the psychological distress a person can experience as a result of exposure to information about the primary trauma suffered by another. Numerous theoretical papers⁵⁶ and, more recently, published personal accounts⁵⁷ have highlighted secondary trauma as an occupational hazard of judicial work. It is axiomatic that judicial officers are exposed to potentially traumatic material. Courts deal, on a daily basis, with the very worst that humanity does to itself, and judicial work entails regular contact with distressing subject matter and distressed court users. What is less known, however, is whether this exposure translates to psychological distress in the form of secondary trauma *reactions* among judicial officers. A number of US studies have explored judicial experiences of secondary trauma reactions, variously defined as vicarious trauma, compassion fatigue and secondary traumatic stress

⁴⁷ Lustig et al, “Burnout and Stress Among United States Immigration Judges”, n 3.

⁴⁸ Tasi and Chan, n 3.

⁴⁹ Maslach and Jackson, n 45.

⁵⁰ Nico Schutte et al, “The Factorial Validity of the Maslach Burnout Inventory-General Survey (MBI-GS) Across Occupational Groups and Nations” (2000) 73 *Journal of Occupational and Organizational Psychology* 53, 53.

⁵¹ Wilmar B Schaufeli et al, “MBI General Survey” (1996) (available for purchase from <www.mindgarden.com>).

⁵² Christina Maslach and Susan E Jackson, “MBI-Human Services Survey” (1981) (available for purchase from <www.mindgarden.com>).

⁵³ Christina Maslach, Susan E Jackson, and Richard L Schwab, “MBI-Educators Survey” (1986) (available for purchase from <www.mindgarden.com>).

⁵⁴ Chamberlain and Miller, n 5, 244.

⁵⁵ Schaufeli et al, n 51.

⁵⁶ See, eg, Chamberlain and Miller, n 5; Chamberlain and Richardson, n 1; Miller and Richardson, n 41; Schrever, “Judge Stress”, n 10; Isiah M Zimmerman, “Helping Judges in Distress” (2006) 90(1) *Judicature* 10, 11–12.

⁵⁷ Magistrate David Heilpern, “Lifting the Judicial Veil – Vicarious Trauma, PTSD and the Judiciary: A Personal Story” (Speech delivered at the *Tristan Jepson Memorial Foundation Annual Lecture*, Sydney, 25 October 2017); Karen Adam, “The Price I Paid for Being a Good Judge” (National Centre for State Courts, 20 April 2017) <<https://www.judges.org/price-paid-good-judge/>>.

(STS);⁵⁸ however, in most cases these experiences were not empirically measured using validated instruments. An exception is a US study of immigration judges, which employed the Secondary Traumatic Stress Scale (STSS)⁵⁹ and reported judges' levels of STS were higher than those previously found for social workers.⁶⁰ As the only validated measure of secondary trauma reactions that had been used in previous judicial research, the STSS was selected for the current study.

STS is defined as “the natural, consequent behaviours and emotions resulting from knowledge about a traumatizing event experienced by a significant other. It is the stress resulting from helping or wanting to help a traumatised or suffering person”.⁶¹ The negative effects of STS are understood to be qualitatively similar to those of primary trauma – namely, experiences of intrusion (eg unwanted memories, flashbacks and nightmares), avoidance (eg of reminders of the trauma, emotional numbness) and arousal (eg hypervigilance). As such, the STSS was developed to maintain congruence with the diagnostic criteria for post-traumatic stress disorder (PTSD),⁶² and it has been suggested that it can be used as a proxy measure for the presence of PTSD symptomatology.⁶³

The STSS is a 17-item, five-point scale measuring the frequency (1 = never; 5 = very often), over *the past seven days*, of intrusion, avoidance and arousal symptoms associated with the indirect exposure to traumatic events via one's professional contact with traumatised individuals. The official STSS refers throughout to “clients”, but permits substitution of another noun that better represents the work of the target population. In the current survey “clients” was changed to “people who come before me”, and “work with clients” was changed to “court work”. Sample items were as follows: for intrusion, “I had disturbing dreams about the people who come before me”; for avoidance, “I avoided people, places, or things that reminded me of my court work”; for arousal, “I felt jumpy”. Raw scores are obtained for each sub-scale by summing responses to sub-scale items, and average scores are calculated by dividing the raw score by the number of relevant items. A Total STSS raw score (the sum of all scale items) ranges from 17 to 85, with high scores indicating more severe STS. Percentile ranks from a normative sample of US social workers ($n = 282$)⁶⁴ allows classification of Total STSS scores into one of five severity ranges: “normal” (50th percentile; scores less than 28); “mild” (51st to 75th percentile; scores from 28 to 37); “moderate” (76th to 90th percentile; scores from 38 to 43); “high” (91st to 95th percentile; scores from 44 to 48); and “severe” (above the 95th percentile; scores above 48).⁶⁵ There is good evidence of reliability, convergent and discriminant validity, and factorial validity of the STSS. In the present study, the internal reliability was found to be acceptable across the three sub-scales (Cronbach's alpha coefficients: for intrusion = .76; for avoidance = .82; for arousal = .80).

4. Alcohol Use and Dependence

The relationship between stress and alcohol dependence is well documented.⁶⁶ In addition, the theoretical⁶⁷ and empirical⁶⁸ literature on lawyer stress suggests that alcohol use, especially to manage

⁵⁸ Jaffe et al, n 3; Chamberlain and Miller, n 3; Lustig et al, “Burnout and Stress Among United States Immigration Judges”, n 3; Resnick, Myatt and Marotta, n 3.

⁵⁹ Brian E Bride et al, “Development and Validation of the Secondary Traumatic Stress Scale” (2004) 14(1) *Research on Social Work Practice* 27.

⁶⁰ Lustig et al, “Burnout and Stress Among United States Immigration Judges”, n 3, 27.

⁶¹ Bride et al, n 59, 27, quoting CR Figley, “Compassion Fatigue: Towards a New Understanding of the Costs of Caring” in BH Stamm (ed), *Secondary Traumatic Stress: Self-Care Issues for Clinicians, Researchers, and Educators* (Sidran, 2nd ed, 1999) 3, 10.

⁶² DSM-IV at the time of scale development, in the *Diagnostic and Statistical Manual of Mental Disorders* (APA, 4th ed, text revision, 2000).

⁶³ Brian E Bride, “Prevalence of Secondary Traumatic Stress Among Social Workers” (2007) 52(1) *Social Work* 63, 67; James C Caringi et al, “Secondary Traumatic Stress and Licensed Clinical Social Workers” (2016) 23(2) *Traumatology* 186, 190.

⁶⁴ Bride, n 63, 68.

⁶⁵ Bride, n 63; Caringi et al, n 63, 190.

⁶⁶ See, eg, Beaton Consulting, “Annual Professions Survey” (Summary Research, Beyondblue, April 2007) 2–3.

⁶⁷ Patrick J Schiltz, “On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy and Unethical Profession” (1999) 52 *Vanderbilt Law Review* 871, 876.

⁶⁸ G Andrew et al, “The Prevalence of Depression, Alcohol Abuse and Cocaine Abuse among United States Lawyers” (1990) 13 *International Journal of Law and Psychiatry* 233; Beaton Consulting, n 66; Janet Chan, Suzanne Poynton and Jasmine Bruce,

feelings of stress and sadness, is notably high within the legal profession – higher, it seems, than in other professions. In light of this, it was decided to include a measure of alcohol use in the survey. The instrument chosen was the World Health Organisation's Alcohol Use Disorders Identification Test (AUDIT). It is widely used, has excellent psychometric properties, helpful cut-off scores, good population norms,⁶⁹ and was used in at least one Australian⁷⁰ and one American⁷¹ lawyer stress study. The AUDIT contains 10 items relating to frequency, quantity, dependence and harmful consequences of alcohol use (eg "How many standard drinks do you have on a typical day when you are drinking?"), which participants rate on a three- or five-point Likert scale, depending on the question. A total AUDIT score is obtained by summing responses to individual questions. Possible scores range from 0 to 30, with higher scores indicating higher risk drinking. Normative data allows for the classification of AUDIT scores into one of four levels of risk: "non-drinker" (scores of 0); "low risk" (scores of 1–7); "medium risk" (scores of 8–15); and "high risk" (scores of 16+).⁷² Scores in the "medium- to high-risk" range are sometimes referred to as indicating "problematic use".⁷³ The internal reliability in the present study was found to be acceptable (Cronbach's alpha coefficient = .76).

III. ANALYSIS

This article presents the primary analysis of the quantitative survey data – that is, descriptive statistics and normative comparisons across the various measures of stress and wellbeing:

- perceived stress and wellbeing;
- non-specific psychological distress (K10);
- depressive and anxious symptoms (DASS-21);
- burnout (MBI-GS);
- secondary traumatic stress (STSS); and
- alcohol use and dependence (AUDIT).

Forthcoming articles will present the secondary analysis of the quantitative data (ie relationships among stress variables, relationships between stress variables and basic psychological needs satisfaction, and differences among demographic groups), and the qualitative data arising from the interviews.

A. Perceived Stress and Wellbeing

Three questions provided an initial measure of judicial officers' perceived stress and wellbeing. The first two related to the frequency (1 = none of the time; 5 = almost all the time) that judicial officers had experienced "stress" and "personal wellbeing and satisfaction" related to their work since their appointment. As shown in Fig 1, perceived stress was negatively skewed and perceived wellbeing was positively skewed. Approximately one-eighth (12.7%) of respondents reported experiencing "stress" most or almost all of the time, while more than three-quarters (76.0%) reporting experiencing "personal wellbeing and satisfaction" most or almost all of the time. An analysis of individual responses revealed that subjective experiences of stress and wellbeing were not mutually exclusive – for example, of those who reported experiencing stress most of the time, the majority (60.0%) also reported experiencing personal wellbeing and satisfaction most of the time.

"Lawyering Stress and Work Culture: An Australian Study" (2014) 37(3) *UNSW Law Journal* 1062; Patrick R Krill, Ryan Johnson and Linda Albert, "The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys" (2016) 10(1) *Journal of Addiction Medicine* 46.

⁶⁹ JB Saunders et al, "Development of the Alcohol Use Disorders Identification Test (AUDIT): WHO Collaborative Project on Early Detection of Persons with Harmful Alcohol Consumption II" (1993) 88 *Addiction* 791; Thomas F Babor et al, *AUDIT: The Alcohol Use Disorders Identification Test – Guidelines for Use in Primary Health Care* (World Health Organisation, 2nd ed, 2001) <<http://www.who.int/iris/handle/10665/67205>> (AUDIT Manual); DF Reinert and JP Allen, "The Alcohol Use Disorders Identification Test: A Update of Research Findings" (2007) 31(2) *Alcoholism: Clinical and Experimental Research* 185.

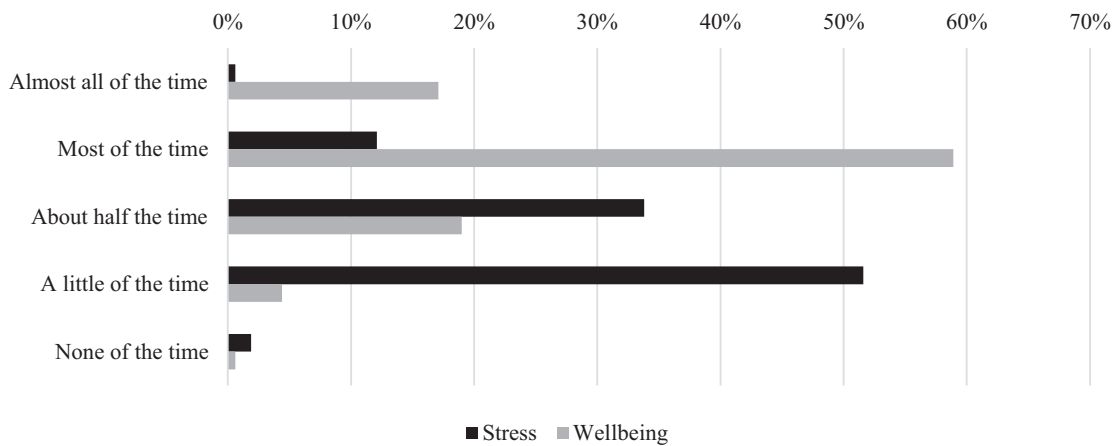
⁷⁰ Chan, Poynton and Bruce, n 68.

⁷¹ Krill, Johnson and Albert, n 68.

⁷² Chan, Poynton and Bruce, n 68, 81; AUDIT Manual, n 69, 21–22. Note that the AUDIT Manual divides the "high-risk" category into two "zones", the first (scores 16–19) indicating simple advice plus brief counselling and continued monitoring are necessary, and the second (scores 20+) indicating referral to a specialist for diagnostic evaluation and treatment.

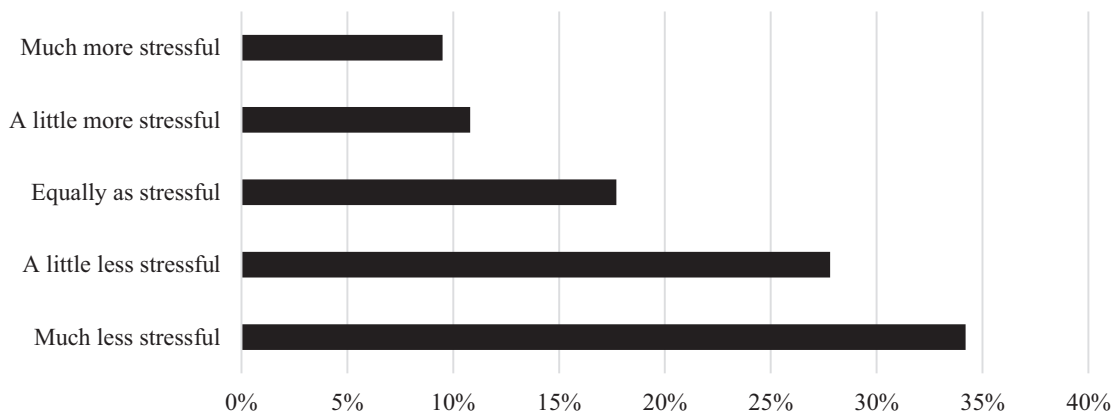
⁷³ Krill, Johnson and Albert, n 68, 47.

FIGURE 1. Responses to Questions “Since Your Appointment, How Much of the Time Did You Experience Stress/Personal Wellbeing and Satisfaction Related to Your Work?,” Shown as Percentages ($n = 152$)



A third question was directed to perceptions of the relative stress (1 = much less stressful; 5 = much more stressful) of judicial office compared with respondents' career prior to appointment. The results are shown in Fig 2. Sixty-two per cent of judicial officers reported that judicial office was a little or much less stressful than their pre-appointment careers, 20.3% reported that it was a little or much more stressful, with the remainder (17.7%) reporting that it was equally as stressful.

FIGURE 2. Responses to the Question “Relative to Your Career Prior to Appointment, How Does the Stress of Judicial Office Compare?,” Shown as Percentages ($n = 152$)



B. Non-Specific Psychological Distress (K10)

The descriptive statistics for judicial officers' K10 scores were as follows: mean = 16.64; standard deviation = 4.87; possible range = 10–50; observed range = 10–31. The K10 asks about the frequency of experiences over *the past four weeks*. The highest scoring items were “about how often did you feel tired out for no good reason?” and “about how often did you feel nervous?”, with 14.2% and 4.5% of judicial officers respectively reporting they felt this way “most of the time” or “all of the time” over the past four weeks.

As noted above, K10 scores can be categorised into one of four severity ranges, from “low or no distress” through to “severe distress”. The frequencies of K10 scores within each severity range for judicial

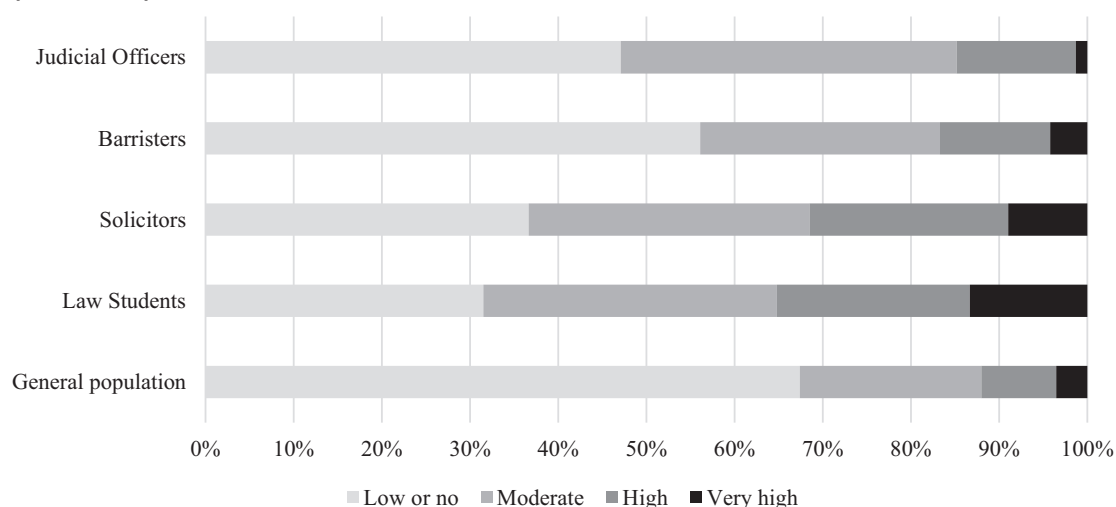
officers in the present study, and those reported in previous studies of the Australian legal profession⁷⁴ and general population,⁷⁵ are set out in Table 3 and expressed graphically in Fig 3. The majority (52.9%) of judicial officers' scores indicated some level of non-specific psychological distress, with 14.8% of scores indicating high or very high distress.

TABLE 3. K10 Severity Range Frequencies, Expressed as Percentages, for Australian Judicial Officers ($n = 152$) Compared with Those Reported for Barristers, Solicitors, Law Students and the Australian General Population

K10 Severity Range Frequencies (%)					
Population	n	Low or No Distress	Moderate Distress	High Distress	Very High Distress
Judicial officers	152	47.1	38.1	13.5	1.3
Barristers	756	56.2	27.2	12.5	4.2
Solicitors	924	36.4	31.6	22.3	8.7
Law students	741	31.5	33.3	21.9	13.3
General population	15,740	67.3	20.8	8.5	3.5

Sources: Data for barristers, solicitors and law students is as reported in the landmark study by Norm Kelk et al, "Courting the Blues: Attitudes Towards Depression in Australian Law Students and Legal Practitioners" (Monograph, 2009-1, Brain and Mind Research Institute, January 2009) 9; data for the general population are as reported in Australian Bureau of Statistics, "Use of the Kessler Psychological Distress Scale in ABS Health Surveys, Australia, 2007-8, National Health Survey 2007-8" (Information Paper, 4817.0.55.001, 4 April 2012).

FIGURE 3. K10 Severity Range Frequencies, Expressed as Percentages, for Australian Judicial Officers ($n = 152$), Compared with Those Reported for Barristers ($n = 756$), Solicitors ($n = 924$), Law Students ($n = 741$) and the Australian General Population ($n = 15,740$)



Sources: Data for barristers, solicitors, and law students is as reported in the landmark study by Norm Kelk et al, "Courting the Blues: Attitudes Towards Depression in Australian Law Students and Legal Practitioners" (Monograph, 2009-1, Brain and Mind

⁷⁴ Courting the Blues Study, n 27.

⁷⁵ Australian Bureau of Statistics, n 26; Australian Bureau of Statistics, n 30.

Research Institute, January 2009) 9; data for the general population are as reported in Australian Bureau of Statistics, “Use of the Kessler Psychological Distress Scale in ABS Health Surveys, Australia, 2007–8, National Health Survey 2007–8” (Information Paper, 4817.0.55.001, 4 April 2012).

These results indicate that Australian judicial officers experience elevated rates of non-specific psychological distress, as measured by the K10, in the “moderate” to “high” ranges, compared to the general population and the barrister arm of the legal profession. However, when we consider distress within the “very high” range, judicial officers’ rates are considerably lower than all levels of the profession and the general population.

C. Depressive and Anxious Symptoms (DASS-21)

The descriptive statistics for judicial officers’ scores on the DASS-21, across the three sub-scales of depression, anxiety and stress, are set out in Table 4. The frequencies of judicial officers’ scores within each of the five normative severity ranges are set out in Table 5.

TABLE 4. Means, Standard Deviations and Ranges for Judicial Officers’ Scores on the DASS-21 Sub-Scales ($n = 152$)

Sub-Scale	Mean	Standard Deviation	Possible Range	Observed Range
Depression	2.22	2.81	0–21	0–18
Anxiety	1.50	2.23	0–21	0–13
Stress	5.03	3.66	0–21	0–20

TABLE 5. Severity Range Frequencies for Judicial Officers’ Scores on the DASS-21 Sub-Scales ($n = 152$)

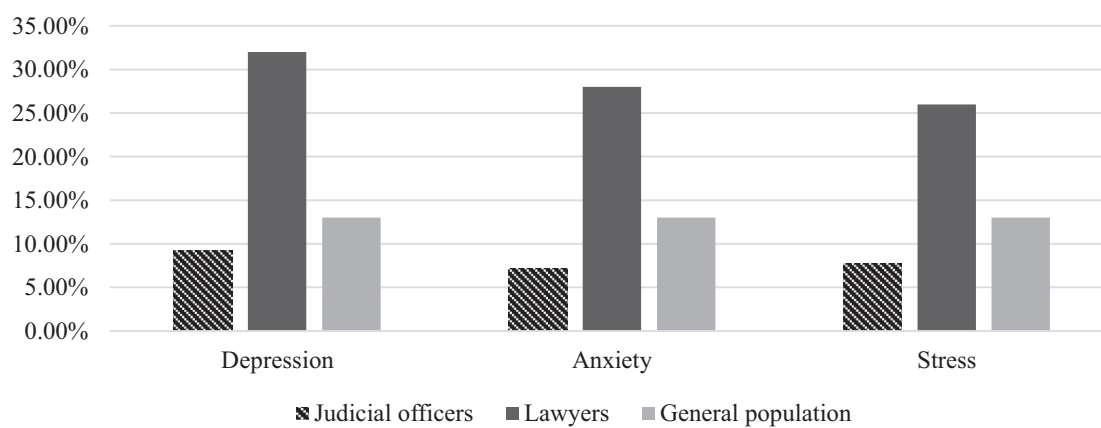
Sub-Scale	Severity Range				
	Normal	Mild	Moderate	Severe	Extremely Severe
Depression					
Score cut-off	0–4	5–6	7–10	11–13	14+
Count	126	12	12	1	1
Percentage	82.9%	7.9%	7.9%	.7%	.7%
Anxiety					
Score cut-off	0–3	4–5	6–7	8–9	10+
Count	131	10	6	3	2
Percentage	86.2%	6.6%	3.9%	2.0%	1.3%
Stress					
Score cut-off	0–7	8–9	10–12	13–16	17+
Count	120	20	6	4	2
Percentage	78.9%	13.2%	3.9%	2.6%	1.3%

Note: Score cut-offs for the severity ranges are derived from normative percentiles as set out in the DASS official manual.

The three most strongly endorsed DASS-21 items were all from the “stress” sub-scale: “I found it hard to wind down”; “I found it difficult to relax”; and “I found myself getting agitated”. The percentage of respondents who indicated that these experiences applied to them “a good part or most of the time” over the past week was 25.0%, 15.3% and 8.6%, respectively.

A number of lawyer and law student wellbeing studies have focused on the rates of scores in the “moderate” to “extremely severe” ranges – sometimes reporting rates three times higher than the general populations – as an indication of the scale of the mental health problem afflicting the legal profession.⁷⁶ Figure 4 shows the rates of judicial officers’ scores in the “moderate” to “extremely severe” ranges, compared with Australian lawyers and the general population – according to results reported in a large-scale study of the Australian legal profession ($n = 965$)⁷⁷ and the population normative percentiles set out in the DASS-21 official manual.⁷⁸ The results show that judicial officers’ rates of “moderate” to “extremely severe” depression, anxiety and stress symptoms (9.3%, 7.2% and 7.8%, respectively) were dramatically lower than those reported for Australian lawyers, and lower also than those suggested for the Australian general population.

FIGURE 4. Rates of Judicial Officers’ DASS-21 Scores ($n = 152$) in the “Moderate” to “Extremely Severe” Ranges, as Compared to Those Reported for Australian Lawyers ($n = 756$) and Suggested for the General Population



Sources: Janet Chan, Suzanne Poynton and Jasmine Bruce, “Lawyering Stress and Work Culture: An Australian Study” (2014) 37(3) *UNSW Law Journal* 1062, 1081; PF Lovibond and SH Lovibond, *Manual for the Depression Anxiety Stress Scales (DASS)* (Psychology Foundation Monograph, 1993).

D. Burnout (MBI-GS)

The descriptive statistics for judicial officers’ scores on the MBI-GS, across the three burnout sub-scales of exhaustion, cynicism and professional efficacy, are set out in Table 6. Scores on the “professional efficacy” sub-scale are interpreted in reverse to the exhaustion and cynicism sub-scales – that is burnout is associated with *higher* exhaustion and cynicism scores, but *lower* professional efficacy scores. The frequencies of judicial officers’ scores within these normative severity ranges of “low”, “moderate” and “high” are set out in Table 7. On each of the “exhaustion” and “cynicism” sub-scales, a little over one quarter (26.6% and 29.6%, respectively) of judicial officers scored in the “high” range. Approximately one in 10 (10.4%) scored in the “low” range on the “professional efficacy” sub-scale. Four per cent (4.0%) scored “high” on both “exhaustion” and “cynicism”, and “low” on “professional efficacy”, indicating *high risk* of burnout, whereas 24.8% scored “low” on both “exhaustion” and “cynicism”, and “high” on “professional efficacy”, indicating *low risk* of burnout.

⁷⁶ See, eg, Chan, Poynton and Bruce, n 68; Adele J Bergin and Nerina L Jimmieson, “Australian Lawyer Well-Being: Workplace Demands, Resources and the Impact of Time-Billing Targets” (2014) 21(3) *Psychiatry, Psychology and Law* 427; Wendy Larcombe et al, “Does an Improved Experience of Law School Protect Students Against Depression, Anxiety and Stress? An Empirical Study of Wellbeing and the Law School Experience of LLB and JD Students” (2013) 35 *Sydney Law Review* 407.

⁷⁷ Chan, Poynton and Bruce, n 68, 1081. Note: Chan, Poynton and Bruce used the extended version of the DASS, the DASS-42, so (as permitted by DASS Manual) the cut-off scores were divided by two to match the cut-offs for the DASS-21.

⁷⁸ Normative percentiles reported in official DASS Manual, n 32. No “n” for the normative sample was provided.

TABLE 6. Means, Standard Deviations and Ranges for Judicial Officers' Scores on the MBI-GS Sub-Scales ($n = 125$)

Sub-Scale	Mean	Standard Deviation	Possible Range	Observed Range
Exhaustion	2.27	1.40	0.00–6.00	0.00–5.40
Cynicism	1.61	1.40	0.00–6.00	0.00–6.00
Professional efficacy	5.04	.87	0.00–6.00	1.17–5.04

Note: One incomplete response on the “exhaustion” sub-scale lead to an overall sample size of $n = 124$ for that sub-scale.

TABLE 7. Burnout Severity Range Frequencies for Judicial Officers' Scores on the MBI-GS Sub-Scales ($n = 125$)

Sub-Scale	Burnout Severity Range		
	Low	Moderate	High
Exhaustion			
Score cut-off	≤ 2.00	2.01–3.19	≥ 3.20
Count	64	27	33
Percentage	51.6%	21.8%	26.6%
Cynicism			
Score cut-off	≤ 1.00	1.01–2.19	≥ 2.20
Count	58	30	37
Percentage	46.4%	24.0%	29.6%
Professional Efficacy			
Score cut-off	≤ 4.00	4.01–4.99	≥ 5.00
Count	13	27	85
Percentage	10.4%	21.6%	68.0%

Note: One incomplete response on the “exhaustion” sub-scale lead to an overall sample size of $n = 124$ for that sub-scale.

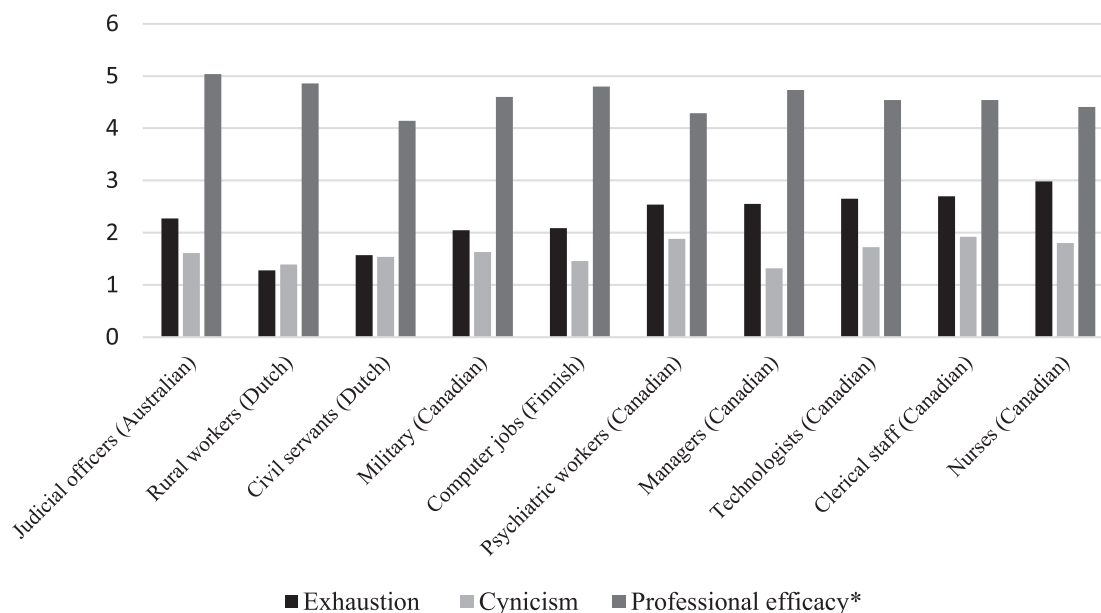
The most strongly endorsed items were all on the “professional efficacy” sub-scale, for which high scores indicate *lower* burnout. Among the items for which high scores indicate *higher* burnout (ie items on the “exhaustion” and “cynicism” sub-scales), the three most strongly endorsed were: “I feel used up at the end of the workday” (exhaustion); “I just want to do my work and not be bothered” (cynicism); and “I feel emotionally drained by my work” (exhaustion). The percentages of respondents who indicated that they experience these feelings at least once a week were 40.4%, 38.4%, and 30.4%, respectively. Almost 8% (7.8%) of respondents indicated that they feel “used up at the end of the workday” every day.

To the knowledge of the author, the MBI-GS has not been used in other studies involving judicial officers or lawyers. It has, however, been used in a number of large-scale North American and European studies across a range of occupational groups (including military, nurses, civil servants and psychiatric workers).⁷⁹ Figure 5 shows judicial officers' mean scores across each of the sub-scales, alongside those reported for different occupational groups in previous studies. The results reveal that, on average, judicial officers in this sample experienced moderate levels of “exhaustion”

⁷⁹ Results of these studies are summarised in Christina Maslach, Susan E Jackson and Michael P Leiter, *Maslach Burnout Inventory Manual* (Mind Garden, 3rd ed, 2013) (MBI Manual) 24, 48.

and “cynicism”, but very high levels of “professional efficacy”, compared with the available data for other occupational groups.

FIGURE 5. Australian Judicial Officers’ Mean Scores on the Three MBI-GS Sub-Scales (“Exhaustion”; “Cynicism” and “Professional Efficacy”) Compared with Those Previously Reported for Other Occupational Groups



Source: Christina Maslach, Susan E Jackson and Michael P Leiter, *Maslach Burnout Inventory Manual* (Mind Garden, 3rd ed, 2013) 24.

E. Secondary Traumatic Stress (STSS)

The descriptive statistics for judicial officers’ raw and average scores on the STSS, for total STSS and across the three sub-scales of “intrusion”, “avoidance” and “arousal”, are set out in Table 8. An STS symptom was considered to be endorsed if the respondent indicated that it was experienced “occasionally”, “often” or “very often” in the preceding seven days. The great majority (83.6%) of judicial officers endorsed at least one STS symptom, with the “arousal” sub-scale (mean = 2.04; standard deviation = .70) more strongly endorsed than the “intrusion” (mean = 1.83; standard deviation = .62) and the “avoidance” (mean = 1.79; standard deviation = .63) sub-scales. The most strongly endorsed items were: “I had trouble sleeping” (arousal; endorsed by 48.7%); “I thought about my court work when I didn’t intend to” (intrusion; endorsed by 46.7%); and “I was easily annoyed” (arousal; endorsed by 37.5%). Responses to a number of other items are also notable: 22.4% of judicial officers endorsed “I wanted to avoid working on certain types of cases or cases involving certain people” (avoidance); 18.4% endorsed “it seemed as if I was reliving the traumas experienced by a person/some people who came before me” (intrusion); and 10.5% endorsed “I had disturbing dreams about the people that came before me” (intrusion). Figure 6 shows judicial officers’ mean scores for the three STSS sub-scales, as compared with those reported for three occupational groups in the United States: immigration judges ($n = 96$);⁸⁰ social workers ($n = 287$);⁸¹ and clinical social workers ($n = 256$).⁸²

⁸⁰ Lustig et al, “Burnout and Stress Among United States Immigration Judges”, n 3.

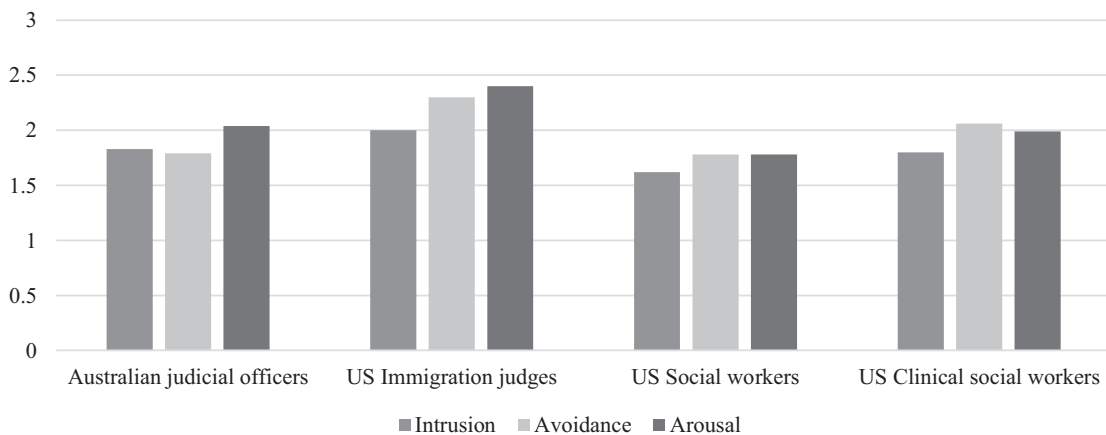
⁸¹ Bride et al, n 59.

⁸² Carangi et al, n 63.

TABLE 8. Means, Standard Deviations and Ranges for Judicial Officers' Raw and Average Scores on the STSS Sub-Scales and Total STSS

Scale	Mean	Standard Deviation	Possible Range	Observed Range
Raw Scores				
Intrusion	9.15	3.10	5–25	5–18
Avoidance	12.52	4.43	7–35	7–27
Arousal	10.20	3.48	5–25	5–21
Total STSS	31.78	10.04	17–85	17–58
Mean Scores				
Intrusion	1.83	.62	1.00–5.00	1.00–3.60
Avoidance	1.79	.63	1.00–5.00	1.00–3.86
Arousal	2.04	.70	1.00–5.00	1.00–4.20
Total STSS	1.87	.59	1.00–5.00	1.00–3.41

Note: Several incomplete responses lead to slightly different sample sizes across the three sub-scales: "intrusion" ($n = 123$); "avoidance" ($n = 124$); "arousal" ($n = 125$); and total STSS ($n = 122$).

FIGURE 6. Australian Judicial Officers' ($n = 122$) Mean Scores on the Three STSS Sub-Scales – "Intrusion" ($n = 123$), "Avoidance" ($n = 124$) and "Arousal" ($n = 125$) – Compared with Those Previously Reported for Other Occupational Groups in the United States

Sources: Immigration judges (Lustig et al, "Burnout and Stress Among United States Immigration Judges" (2008) 13 *Benders Immigration Bulletin* 22); social workers (Brian E Bride et al, "Development and Validation of the Secondary Traumatic Stress Scale" (2004) 14(1) *Research on Social Work Practice* 27); clinical social workers (James C Caringi et al, "Secondary Traumatic Stress and Licensed Clinical Social Workers" (2016) 23(2) *Traumatology* 186, 190).

The frequencies of judicial officers' total STSS raw scores within each severity range are set out in Table 9. The results indicate that 62.3% of judicial officers were experiencing mild or higher levels of STS, with 13.2% experiencing high or severe STS. As noted above, STSS items mirror the diagnostic criteria for PTSD⁸³ and its lead author has suggested it could be used as a proxy measure of PTSD

⁸³ As set out in the DSM-IV, n 62, which was current at the time the STSS was produced.

symptomatology.⁸⁴ Total STSS raw scores of 38 or higher (ie scores in the “moderate” to “severe” ranges) are considered pertinent to the question of whether formal assessment for PTSD might be indicated.⁸⁵ In the current study, 30.4% ($n = 37$) of judicial officers scored at or above 38. Figure 7 shows judicial officers’ rates of scores at or over 38, alongside those previously reported for two samples of US social workers.

TABLE 9. Severity Range Frequencies for Judicial Officers’ Total STSS Raw Scores ($n = 122$)

Total STSS	Severity Range				
	Normal	Mild	Moderate	High	Severe
Score cut-off	>28	28–37	38–43	44–48	49+
Count	46	39	21	8	8
Percentage	37.7%	32.0%	17.2%	6.6%	6.6%

Note: Severity ranges and score cut-offs were suggested by Bride based on percentile ranks of total STSS raw scores found in his study of 282 US social workers; see Brian E Bride, “Prevalence of Secondary Traumatic Stress among Social Workers” (2007) 52(1) *Social Work* 63.

FIGURE 7. Percentage of Australian Judicial Officers (30.4%) Whose Total STSS Raw Score Was 38 or Above, Compared with Percentages Previously Reported for a Group of US Social Workers (25.0%) and US Clinical Social Workers (37.7%).=



Sources: Brian E Bride, “Prevalence of Secondary Traumatic Stress Among Social Workers” (2007) 52(1) *Social Work* 63, 67; James C Caringi et al, “Secondary Traumatic Stress and Licensed Clinical Social Workers” (2016) 23(2) *Traumatology* 186, 190, 190.

F. Alcohol Use and Dependence (AUDIT)

The descriptive statistics for judicial officers’ AUDIT scores were as follows: mean = 6.12; standard deviation = 4.11; possible range = 0–30; observed range = 0–23. The three most strongly endorsed items all related to frequency and quantity of drinking, as opposed to dependent or harmful drinking. The highest scoring item was “How often do you have a drink containing alcohol”, with 76% of judicial officers indicating that they drink at least twice weekly. Almost half (48.4%) reported that they have at least 3–4 standard drinks on a typical day when they are drinking. Fourteen per cent (14.6%) reported that they “consume six or more standard drinks on one occasion” at least weekly.

⁸⁴ Bride et al, n 59.

⁸⁵ Bride, n 63; Caringi et al, n 63.

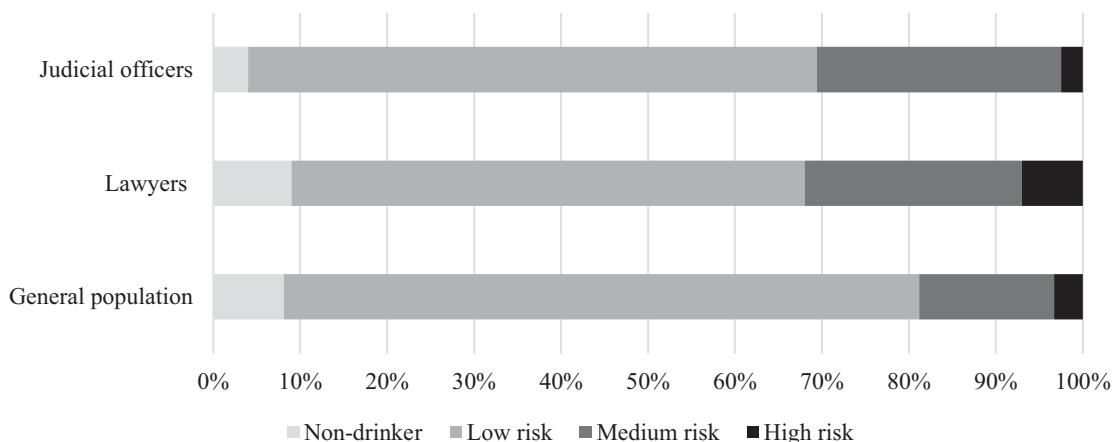
The frequencies of judicial officers' AUDIT scores within each normative level-of-risk range, alongside those reported in previous studies of the Australian legal profession⁸⁶ and general population,⁸⁷ are set out in Table 10 and expressed graphically in Fig 8. Just over 30% of judicial officers scored in the “moderate- to high-risk” or “problematic use” levels, as compared with 32% of lawyers and 18.8% of the general population.

TABLE 10. AUDIT Level of Risk Frequencies, Expressed as Percentages, for Australian Judicial Officers ($n = 121$) Compared with Those Reported for Australian Lawyers and the General Population

Population	n	AUDIT Level of Risk Frequencies (%)			
		Non-Drinker	Low Risk	Medium Risk	High Risk
Judicial officers	121	4.0	65.4	28.1	2.5
Lawyers	772	9.0	59.0	25.0	7.0
General population	4,100	8.1	73.1	15.5	3.3

Sources: Janet Chan, Suzanne Poynton and Jasmine Bruce, “Lawyering Stress and Work Culture: An Australian Study” (2014) 37(3) *UNSW Law Journal* 1062, 1087; Carl I Moller, Robert J Tait, and Don G Byrne, “Self-harm, Substance Use and Psychological Distress in the Australian General Population” (2013) 108(1) *Addiction* 211, 215.

FIGURE 8. AUDIT Level of Risk Frequencies, Expressed as Percentages, for Australian Judicial Officers ($n = 121$), Compared with Those Reported for Australian Lawyers ($n = 772$) and the General Population ($n = 4,100$); Scores in the “Medium- to High-Risk” Levels Indicate “Problematic Use” Warranting Intervention



Sources: Janet Chan, Suzanne Poynton and Jasmine Bruce, “Lawyering Stress and Work Culture: An Australian Study” (2014) 37(3) *UNSW Law Journal* 1062, 1087; Carl I Moller, Robert J Tait, and Don G Byrne, “Self-harm, Substance Use and Psychological Distress in the Australian General Population” (2013) 108(1) *Addiction* 211, 215.

IV. DISCUSSION

This research was the first psychologically grounded study of judicial stress and wellbeing to be conducted in Australia. Based on a survey of 152 judicial officers from five Australian courts, the primary

⁸⁶ Chan, Poynton and Bruce, n 68, 1087.

⁸⁷ Carl I Moller, Robert J Tait, and Don G Byrne, “Self-harm, Substance Use and Psychological Distress in the Australian General Population” (2013) 108(1) *Addiction* 211, 215. Figures reported for Australians in their 40s. An error in the table (figures for “abstainer” and “low risk” have been interchanged). In addition, there is an error in the calculation of the percentage of abstainers: paper reports 6.7% but manually calculated the correct percentage is 8.1%.

quantitative analysis presented in this article provides the first empirical data on the nature, prevalence and severity of stress among Australian judicial officers. These results deliver a picture of how Australian judges' and magistrates' levels of stress fit within the broader conversation about lawyer wellbeing that is taking place around the world.

A. Key Findings

A number of important findings have arisen from this research. First, it has revealed that the pattern of stress and psychological ill-health among judicial officers in the study is different from that which has been reported for the Australian legal profession. This finding draws upon the results from the K-10, which measures psychological distress, and the DASS-21, which measures depressive and anxious symptoms. For the former, compared with K-10 data published for Australian barristers⁸⁸ and the general population,⁸⁹ judicial officers reported elevated rates of non-specific psychological distress in the "moderate" to "high" ranges. However, when considering distress in the "very high" range, judicial officers' rates were considerably lower than all levels of the profession and the general population. Alongside the K-10 results, the DASS-21 results show that judicial officers reported symptoms of depression and anxiety at rates similar to (and, in the "moderate" to "extremely severe" ranges, lower than) those suggested for the general population,⁹⁰ which is dramatically lower than those previously found for the broader legal profession.⁹¹ In fact, in the "moderate" to "extremely severe" ranges, lawyers' reported rates of depression, anxiety and stress symptoms were more than three times those found for judicial officers in this study. Taken together these results suggest that while there is not a widespread mental health problem among the Australian judiciary, there is a stress problem. This is consistent with the limited empirical research on judicial stress from the United States, which has collectively suggested that judicial officers experience elevated occupational stress, but their rates of stress and mental ill-health are generally lower than practising lawyers.⁹²

Given that judicial officers are, almost without exception, drawn from the population of practising lawyers, this difference in rates of mental ill-health between the two groups is interesting. It may be due to a number of factors. It may indicate that judicial work is quantitatively less demanding than legal practice, such that a key driver of mental ill-health within the legal profession is reduced among judges. Alternatively, it could suggest that those appointed to judicial office are generally well-adapted to legal work and well suited to the judicial role – in other words, that the appointment process is generally sound. Finally, it may be a reflection of the well-documented observation that late middle life (the age at which most judicial officers serve their time in office) is a period of relative mental stability. Indeed, it may indicate a combination of all three. Of course, the impact of these factors may vary between different levels of the court hierarchy and different practice areas; these issues will be explored in forthcoming articles.

Second, this research found that symptoms of burnout and secondary trauma were features of the occupational stress experience for many judicial officers. Considering first the MBI-GS burnout results, while only 4.0% of participants' scores fell within the highest risk profile (ie high exhaustion, high cynicism and low professional efficacy), still only 24.8% fell within the lowest risk profile (ie low exhaustion, low cynicism and high professional efficacy), indicating that three-quarters (75.2%) of judicial officers in this study reported scores on at least one sub-scale that was consistent with some level of burnout risk. The burnout symptoms reported by judicial officers' were chiefly along the axes of "exhaustion" and "cynicism"; while reported experiences of "professional efficacy" were generally

⁸⁸ Courting the Blues Study, n 27, 9–10.

⁸⁹ Australian Bureau of Statistics, n 26.

⁹⁰ DASS Manual, n 32.

⁹¹ Chan, Poynton and Bruce, n 68.

⁹² To the knowledge of the research, there is only one study worldwide that has specifically compared levels and rates of distress between judicial officers and practicing lawyers (Krieger and Sheldon, n 3) reporting that judges' levels of depression were the lowest of all legal practitioner groups. Other studies have reported elevated distress symptoms among judges without reference to the legal profession: see, eg, Showalter and Martell, n 3; Eells and Showalter, n 3; Jaffe et al, n 3; Flores et al, n 3; Lustig et al, "Burnout and Stress Among United States Immigration Judges", n 3; Miller et al, n 3.

very strong. The mean scores for both “exhaustion” and “cynicism” were in the “moderate” range, whereas the mean score for “professional efficacy” was in the “high” range – and higher, in fact, than the “professional efficacy” means reported for other occupational groups, such as psychiatric workers, civil servants and the military.⁹³ These results suggest that although judicial officers’ are vulnerable to burnout, their experiences of burnout symptoms are likely to be characterised by feelings of emotional depletion and loss of meaning, rather than feelings of incompetence and ineffectiveness.

Turning to the STSS results, the overwhelming majority of judicial officers in this study (83.6%) endorsed at least one STS symptom, with almost a third (30.4%) obtaining total STSS scores in the “moderate” to “severe” ranges. Given that these statistics relate to symptoms experienced “occasionally”, “often” or “very often” in *the one week* prior to survey completion, these results suggest that, at any given point in time, a considerable proportion of judicial officers are burdened with one or more symptoms of STS. Promoting the STSS as a proxy measure of PTSD, Bride, the lead author of the STSS, has recommended that a total STSS score of 38 or higher be interpreted as indicating PTSD due to STS⁹⁴ – in other words, all people scoring in the “moderate” to “severe” ranges can be considered, according to Bride, likely to meet diagnostic criteria for PTSD.⁹⁵ By this analysis, 30.4% of judicial officers in the present study should be considered to be experiencing symptoms similar to, and likely qualifying for, PTSD. Although Bride reported good sensitivity and specificity for this cut-off value, this methodology has been followed in only one other study⁹⁶ and hence has not been externally validated. Further, the STS does not address PTSD diagnostic criteria relating to duration of symptoms and functional impairment.⁹⁷ It therefore provides, at best, a very crude basis upon which to infer post-traumatic psychopathology. Nonetheless, participants’ mean scores fell somewhere between those previously reported for other high stress professional groups, US social workers⁹⁸ and US immigration judges,⁹⁹ suggesting that STS is a prominent feature of the occupational stress experienced by Australian judicial officers. This is consistent with several American studies which have explored secondary trauma (and the related constructs of vicarious trauma and compassion fatigue) among judges.¹⁰⁰

Third, the study found that judicial officers’ alcohol use was comparable to that reported for the Australian legal profession, which is considerably higher than the documented level of use within the Australian general population. A little over 30% of judicial officers’ AUDIT scores were in the “medium- to high-risk” levels, indicating “problematic” alcohol use; previous studies with Australian lawyers¹⁰¹ and the general population¹⁰² reported rates of “medium- to high-risk” scores as 32.0% and 18.8%, respectively. To the knowledge of the researcher, this is the first study internationally to measure judicial officers’ alcohol use. A number of Australian¹⁰³ and American¹⁰⁴ studies have investigated alcohol use among practising lawyers, frequently reporting that lawyers’ levels of use are higher than those of other occupational groups, especially as a way of managing stress and depression. The Law Institute of Victoria’s 2012 report, “Mental Health and the Legal Profession: A Preventative Strategy”, suggested that there may be a culture within the profession of self-medicating, noting “alcohol abuse

⁹³ MBI Manual, n 79, 24.

⁹⁴ Bride, n 63.

⁹⁵ As set out in the DSM-IV, n 62, which was current at the time the STSS was produced.

⁹⁶ Caringi et al, n 63.

⁹⁷ Diagnostic criteria E and F in DSM-IV, n 62.

⁹⁸ Bride et al, n 59.

⁹⁹ Lustig et al, “Burnout and Stress Among United States Immigration Judges”, n 3.

¹⁰⁰ Jaffe et al, n 3; Chamberlain and Miller, n 3; Lustig et al, “Burnout and Stress Among United States Immigration Judges”, n 3; Resnick, Myatt and Marotta, n 3; Miller et al, n 3.

¹⁰¹ Chan, Poynton and Bruce, n 68, 1087.

¹⁰² Moller et al, n 87, 215.

¹⁰³ Beaton Consulting, n 66; Chan, Poynton and Bruce, n 68.

¹⁰⁴ G Andrew H Benjamin, Elaine J Darling, and Bruce Sales, “The Prevalence of Depression, Alcohol Abuse, and Cocaine Abuse Among United States Lawyers” (1990) 13 *International Journal of Law and Psychiatry* 223; Krill, Johnson and Albert, n 68.

(and, to a lesser extent, substance abuse) is prevalent in the legal profession as a maladaptive strategy for dealing with stress".¹⁰⁵ Although the present study did not investigate judicial officers' functional goals for alcohol use, the results suggest that the pattern of alcohol consumption within the broader Australian legal profession extends to judicial officers.

B. Strengths and Limitations

The present study makes a significant contribution to the conversation on judicial wellbeing taking place in Australia and around the world. As the first research to empirically measure levels of stress and psychological ill-health among Australian judicial officers, the present study is groundbreaking nationally, and – given the limited number of judicial stress studies undertaken using empirically validated measurement instruments¹⁰⁶ – it is pioneering internationally. In addition, whereas previous studies of lawyer and judicial wellbeing have generally confined the analysis to one or two stress constructs, the present study operationalised judicial stress and wellbeing across six qualitatively different stress constructs and used empirically validated psychometric instruments to measure each. This expansive and rigorous measurement approach has afforded a rich and reliable picture of the varied ways in which the unique pressures of judicial office are experienced by judges and magistrates, and how judicial stress compares to the stress experienced by lawyers, other professionals and the general population. The clinical and social significance of this study is considerable. It directly targeted the suffering of senior public officials, judges and magistrates, which is not readily acknowledged and was historically taboo.¹⁰⁷ Given the pivotal role that judicial officers play in Australia's democratic system and the daily impact of their decisions on people's lives, their psychological health and wellbeing is a vital community concern. As more and more judicial officers speak out about their experiences of stress and mental ill-health on the bench, and as courts in Australia and around the world begin to grapple with the question of how best to support judicial officers in their complex and critical work, the results of this study provide an initial basis for appropriate intervention and support.

There were of course some limitations with the present study. First, while this was the first empirical research into judicial wellbeing in Australia, it was not a fully national study. There are, at the time of writing, 38 courts in Australia;¹⁰⁸ five were invited to participate in the study. These five spanned the court hierarchy from summary to appellate level and, given the study's strong (67%) response rate and broad representativeness across the demographic variables, the survey data can be considered to reliably reflect the prevalence and severity of judicial stress within the five participating courts. However, the question of whether these findings can be generalised to the Australian judiciary as a whole is more nuanced. The five participating courts represent just over one-eighth of the courts currently operating within the Australian federal, State and Territory systems, and the 152 judicial participants represent approximately 14.4% of the Australian judicial population, which – at the time of writing – is estimated to number 1,052 judges and magistrates.¹⁰⁹ It should be remembered in interpreting the results that the context and circumstances of judicial work varies considerably from jurisdiction to jurisdiction, and therefore the prevalence and severity findings generated by this study may not be representative of every Australian court.

Second, several aspects of the study design and recruitment methodology may have influenced the sample and responses. First, regarding the use of a survey – self-report bias and social-desirability

¹⁰⁵ Laura Helm, "Mental Health and the Legal Profession: A Preventative Strategy" (Final Report, Law Institute of Victoria, 11 September 2014) 14.

¹⁰⁶ Of the 15 published studies directed to systematically exploring judicial stress, less than half (seven in total) reported using validated stress measurement instruments: Showalter and Martell, n 3; Eells and Showalter, n 3; Flores et al, n 3; Lustig et al, "Burnout and Stress Among United States Immigration Judges", n 3; Tsai and Chan, n 3; Krieger and Sheldon, n 3; Miller et al, n 3.

¹⁰⁷ Kirby, n 6.

¹⁰⁸ The figure of 38 was arrived at by counting courts as presented in various annual reports and this number may be slightly higher. For example, the researcher has included as separate courts Children's/Youth Courts and Coroners Courts where possible and it may be that some separate courts are not included in the figure of 38.

¹⁰⁹ Australasian Institute of Judicial Administration, "Judicial Gender Statistics" (7 March 2018) <<https://aija.org.au/research/judicial-gender-statistics/>>. This information is collated by the AIJA Librarian using the court websites.

bias are well-documented phenomena,¹¹⁰ and are limitations intrinsic to all survey-based psychological research. In this regard, it is possible that participants' responses reflected their aspirational, rather than their actual, experiences. For example, in responding to the AUDIT, participants may have indicated their *intended* frequency and quantity of alcohol use, which may well be considerably lower than their actual level of use.¹¹¹ Even if participants were trying to answer honestly, some may have lacked the introspective ability to provide accurate responses. Given that most of the measures assessed the frequency and intensity of negative stress symptoms, a lack of insight or introspection would likely lead to an under-reporting of symptoms. Although validated measurement instruments, like those used in this study, are scientifically developed to minimise the impact of self-report bias, it is not possible to completely eliminate under- or over-reporting of experience. This, of course, is equally a limitation for the survey-based studies cited throughout this article relating to the legal profession and the general population. However, given the reputed "stress denying" culture¹¹² of the Australian judiciary, it is possible that self-report and social-desirability biases are more pronounced among judicial officers. Second, the recruitment methodology (distributing the survey during internal courts conferences) may not have reached judicial officers' at their most stressed, given that conferences usually provide a short reprieve from the many stressors faced by judicial officers in their daily work. It was also unlikely to have reached the most acutely unwell judicial officers, who may have been on extended sick or stress leave or who may not have been prepared to dedicate the time to survey completion. While these limitations cannot be overlooked, they are arguably most likely to have contributed to an *under-representation* of the true prevalence and severity of judicial stress, such that it is possible the real extent of the stress experienced by judicial officers is higher than the findings suggest.

C. Future Research

The results of the present study raise a number of questions that should be addressed in future research. Perhaps most importantly: are the findings indicative of the state of stress and wellbeing among judicial officers throughout Australia, or are they the idiosyncratic experience of the five participating courts? The Australian judicial system is diverse and dynamic, and while there are undoubtedly many commonalities in judicial work across the Australian courts, it is equally apparent that courts vary dramatically in terms of workload, work type, and work culture, any or all of which may impact the pressures confronted by judicial officers and the stress they experience. The present study highlights the need for a national study, involving all Australian courts, to determine the overall nature, prevalence and severity of judicial stress in Australia and to identify jurisdictions, practice areas and demographic groups that may be particularly affected. If such a study were to occur, it would be a world first. National judicial studies have been undertaken in Australia¹¹³ and the United Kingdom¹¹⁴ with great success and practical application; however, to date these have focused on workload, job satisfaction and judicial attitudes, and have not included validated measures of stress and wellbeing. As already noted, the small number of previous studies measuring judicial stress were all relatively small scale and jurisdiction specific. No country has yet embarked upon a full-scale national study of judicial wellbeing.

A related question is to what extent the findings of the current study reflect the general experience of judicial stress around the world. The current research adds to a very small body of empirical research into

¹¹⁰ See Melissa Hunt, Joseph Auriemma and Ashara CA Cashaw, "Self-Report Bias and Underreporting of Depression on the BDI-II" (2003) 80(1) *Journal of Personality Assessment* 26.

¹¹¹ See Kypros Kypri et al, "Social Desirability Bias in the Reporting of Alcohol Consumption: A Randomised Trial" (2016) 77(3) *Journal of Studies on Alcohol and Drugs* 526; Marian Devaux and Franco Sassi, "Social Disparities in Hazardous Alcohol Use: Self-Report Bias May Lead to Incorrect Estimates" (2016) 26(1) *European Journal of Public Health* 129.

¹¹² See Kirby, n 6, 101; Justice Michael Kirby, "Judicial Stress – A Reply" (1997) 71 ALJ 791, 791.

¹¹³ See the extensive and high-quality work conducted principally by Emerita Professor Kathy Mack and Professor Sharyn Roach Anleu from Flinders University on judicial workload, emotion and job-satisfaction, eg, Kathy Mack, Anne Wallace and Sharyn Roach Anleu, "Judicial Workload: Time, Tasks and Work Organisation" (Australasian Institute of Judicial Administration, 2012).

¹¹⁴ Cheryl Thomas, "2016 UK Judicial Attitude Survey: Report of Findings Covering Salaried Judges in England & Wales Courts and UK Tribunals" (Report, UCL Judicial Institute, 7 February 2017) <<https://www.judiciary.uk/wp-content/uploads/2017/02/jas-2016-england-wales-court-uk-tribunals-7-february-2017.pdf>>.

the psychological impact of judicial work, most of which has been conducted in North America. Judges around the world encounter many of the same occupational stressors (heavy workloads, dealing with distressing subject matter, daily immersion in conflict and disagreement, responsibility for decisions that significantly impact people's lives); however, there are obviously also enormous differences in terms of history and culture, political and social context, terms and conditions, and practical support, to name but a few. Future studies into judicial stress and wellbeing in other countries should attempt to use the same validated measurement instruments as used in the current study, or one of the previous North American studies, to enable meaningful transnational comparisons.

A further area that needs to be explored is the positive side of judicial wellbeing. The present study has focused on the negative side of judicial wellbeing – that is, judicial stress. However, the results from the three questions measuring perceived stress and wellbeing provide an initial indication that personal wellbeing and satisfaction were prominent feelings alongside the stress of the role. It is possible that the sources of fulfilment, accomplishment and purpose within judicial work compensate or offset for the sources of stress, providing for a demanding but meaningful professional life. As research within the relatively recent but now very well-established field of Positive Psychology has demonstrated, meaning may be more integral to sustained wellbeing than ease or pleasure.¹¹⁵ Numerous validated measures of positive wellbeing now exist. Future studies could look into the nature and parameters of judicial wellbeing and satisfaction and explore the relationships between wellbeing variables and stress variables.

Finally, future research could attempt to determine the workplace factors that contribute greater judicial stress or wellbeing. There is much to guide such an inquiry. Extensive research in the fields of occupational stress and organisational psychology has generated a large evidence base for a number of models of workplace wellbeing, including the Mental Health Commission of Canada's 13 factors for psychological health and safety in the workplace,¹¹⁶ which were adopted by the Tristan Jepson Memorial Foundation (now "Minds Count", the peak body for lawyer wellbeing in Australia) in its best practice guidelines for psychologically healthy legal workplaces.¹¹⁷ The 13 factors include "organisational culture", "civility and respect", "psychological demands", and "workload management", and provide a framework both for assessing the extent to which a workplace is supportive of psychological health and wellbeing, and for developing initiatives to improve wellbeing. Future research could be directed to exploring the presence and impact of these factors within the court environment, and their relationship to experiences of judicial stress.

CONCLUSION

This article has presented the methodology and primary quantitative analysis of Australia's first empirical research measuring judicial stress and wellbeing. The findings arise from the survey responses of 152 judicial officers from five Australian courts. Using standardised and validated psychometric instruments for a broad range of stress constructs, the survey robustly explored the varying ways in which stress in judicial office can manifest, and provided a rich picture of the psychological impact of judicial work. The findings reveal a judicial system not in mental health crisis, but under considerable stress. Judicial officers' rates of psychological distress were markedly higher than those previously reported for the general population and the barrister arm of the legal profession. Three-quarters of judicial officers' burnout scores indicated some level of burnout risk. The great majority endorsed at least one symptom of STS, with approximately a third scoring in "moderate" to "severe" ranges. Almost one in three judicial officers reported "problematic" alcohol use. Alongside this, however, judicial officers' rates of depressive and anxious symptoms were similar to and, in the "moderate" to "extremely severe" ranges,

¹¹⁵ For a discussion of the relationship between meaning and wellbeing in judicial work, see Anne Brafford and Rober W Rebele, "Judges Well-Being and the Importance of Meaningful Work" (2018) 54 *Court Review* 60.

¹¹⁶ Mental Health Commission of Canada, "13 Factors: Addressing Mental Health in the Workplace" (2018) <<https://www.mentalhealthcommission.ca/English/13-factors-addressing-mental-health-workplace>>.

¹¹⁷ Tristan Jepson Memorial Foundation, "TJMF Psychological Wellbeing: Best Practice Guidelines for the Legal Profession" (MindsCount, undated) <https://www.mcw.com.au/content/Document/TJMFmentalHealthGuidelines_A4_140426.pdf>.

considerably lower than population norms, which is dramatically lower than rates reported for the legal profession. This research suggests that judicial officers in Australia are under pressure. Psychological distress, burnout and STS appear to be occupational hazards of judicial office, and, like lawyers, judicial officers seem more likely than others to rely on alcohol to manage the demands of the role. The good news is that judicial work does not appear to be associated with increased risk of mental illness and, for most judicial officers, judicial work is perceived as highly satisfying and less stressful than legal practice. While there are many questions yet to be explored, this first report from Australia's first study measuring judicial stress provides the basis for beginning an *evidence-based* conversation on judicial wellbeing in Australia, and contributes to the international conversation on this important topic taking place beyond our shores.