

Prosecutor Well-Being

Produced by The Institute for Innovation in Prosecution

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**“I guess things have been kind of stressful at the office.
Tomorrow is Bring Your Therapist To Work Day.”**

This workshop is about well-being in the prosecution work environment. It is not mental health treatment. Please seek out professional help from a mental health practitioner via your employee assistance program if you are experiencing any distressing thoughts, feelings or symptoms.

Objectives

- ❖ Suggest that tending to prosecutor well-being is the most accessible criminal justice reform that you can individually implement today
- ❖ Define “well-being” as it relates to prosecutors
- ❖ Discuss the connection between well-being and ethics for prosecutors
- ❖ Demonstrate that attention to prosecutor well-being is critical to support fair case adjudication and reduce attrition
- ❖ Identify the signs and consequences of not investing in well-being
- ❖ Define six areas of well-being and provide practical guidance to support them

Exercise

Name three traits that make a good prosecutor.

“We can sustain our work with trauma only if we combine our capacity for empathy with a dedication to personal insight and mindfulness.”

Trauma Stewardship, Laura van Dernoot Lipsky

Lawyer Well-Being

- ❖ 2016 study by the American Bar Association and Hazelden Betty Ford Foundation found:
 - ❖ between 21 and 36% practicing lawyers qualify as problem drinkers
 - ❖ 28% struggle with depression
 - ❖ 19% struggle with anxiety
 - ❖ 23% struggle with stress
- ❖ Highest rates of problem drinking and depression found in
 - ❖ Lawyers in the first 10 years of their career
 - ❖ Lawyers working at firms
- ❖ Many lawyers felt “profound ambivalence” about their work

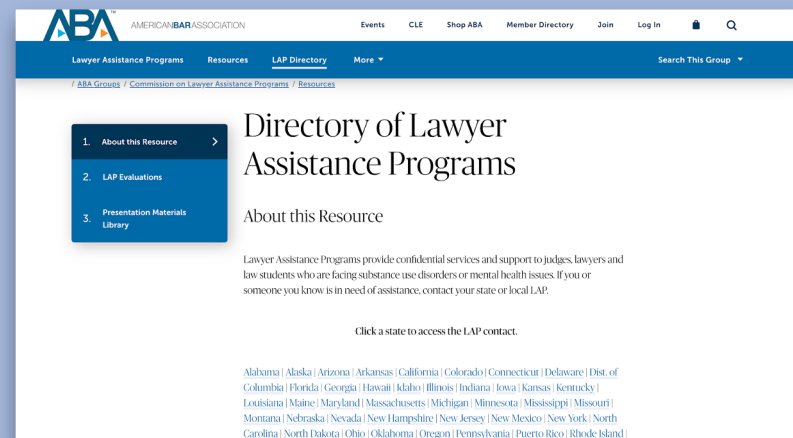
For Additional Assistance

- ❖ The ABA study found many don't seek help because
 - ❖ Denial about a problem
 - ❖ Afraid of being judged
 - ❖ Afraid it will harm professional reputation
 - ❖ Fear it will impact their license

Lawyer Assistance Programs, which provide confidential services and support to judges, lawyers and law students who are facing substance use disorders or mental health issues

Visit:

https://www.americanbar.org/groups/lawyer_assistance/resources/lap_programs_by_state/



Prosecutor Well-Being

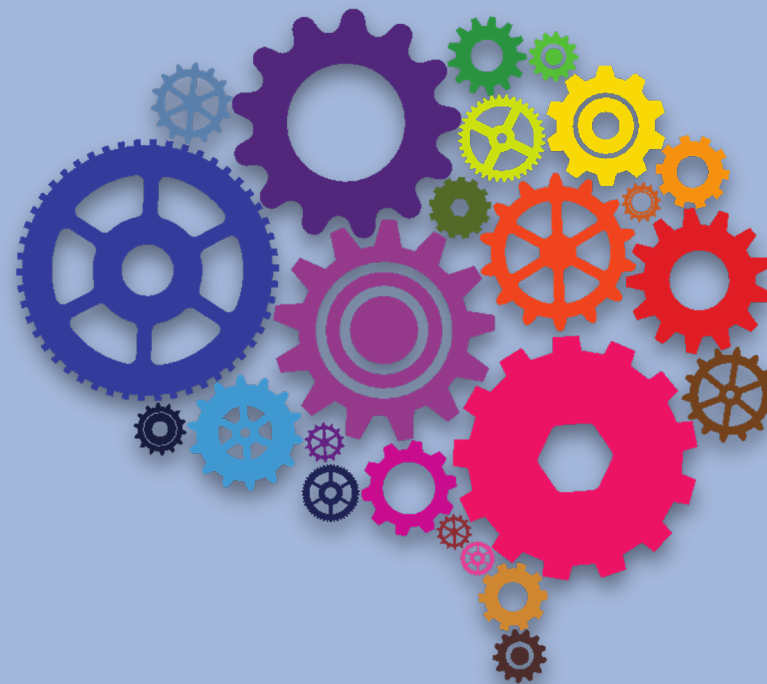
- ❖ Challenges unique to a prosecutor:
 - ❖ Given a lot of responsibility and autonomy with relatively little experience
 - ❖ Handling cases with difficult issues - rape, murder, child abuse
 - ❖ Working within the inherent inequities in the justice system
 - ❖ Decisions have an impact on others - people go to prison
 - ❖ Under-resourced / too many cases

*“By the time you’re thirsty, you’re already
dehydrated”*

Van Dernoot Lipsky, 2009

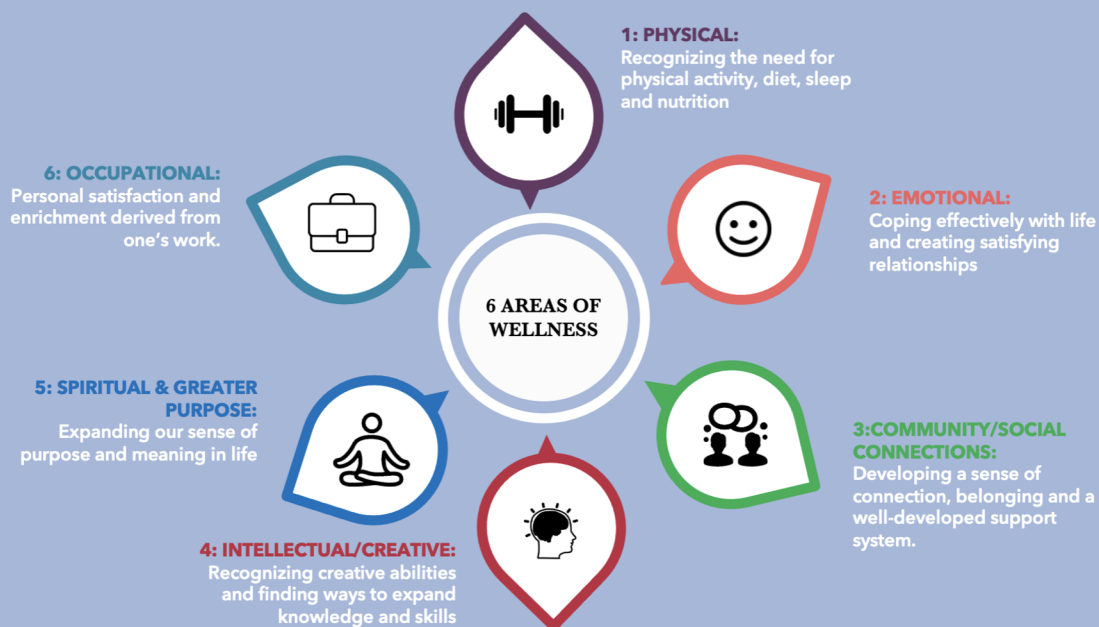
What is “Well-Being”?

- ❖ The ABA’s defines “well-being” as “A continuous process whereby lawyers seek to thrive in each of the following areas: *emotional health, occupational pursuits, creative or intellectual endeavors, sense of spirituality or greater purpose in life, physical health and social connections with others.*”
- ❖ Preventative, rather than reactive



6 Areas of Well-Being

- ❖ Physical health
- ❖ Emotional health
- ❖ Social connection/community
- ❖ Creative and intellectual endeavors
- ❖ Spirituality or purpose
- ❖ Occupational pursuits



Well-Being and Prosecutors Ethical Responsibility

- ❖ ABA Model Rules of Professional Conduct
- ❖ Rule 1.1 (Competence): “A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.”
- ❖ Rule 1.3 (Diligence): “A lawyer shall act with reasonable diligence and promptness in representing a client.”

Well-Being and Prosecutors Ethical Responsibility cont'd

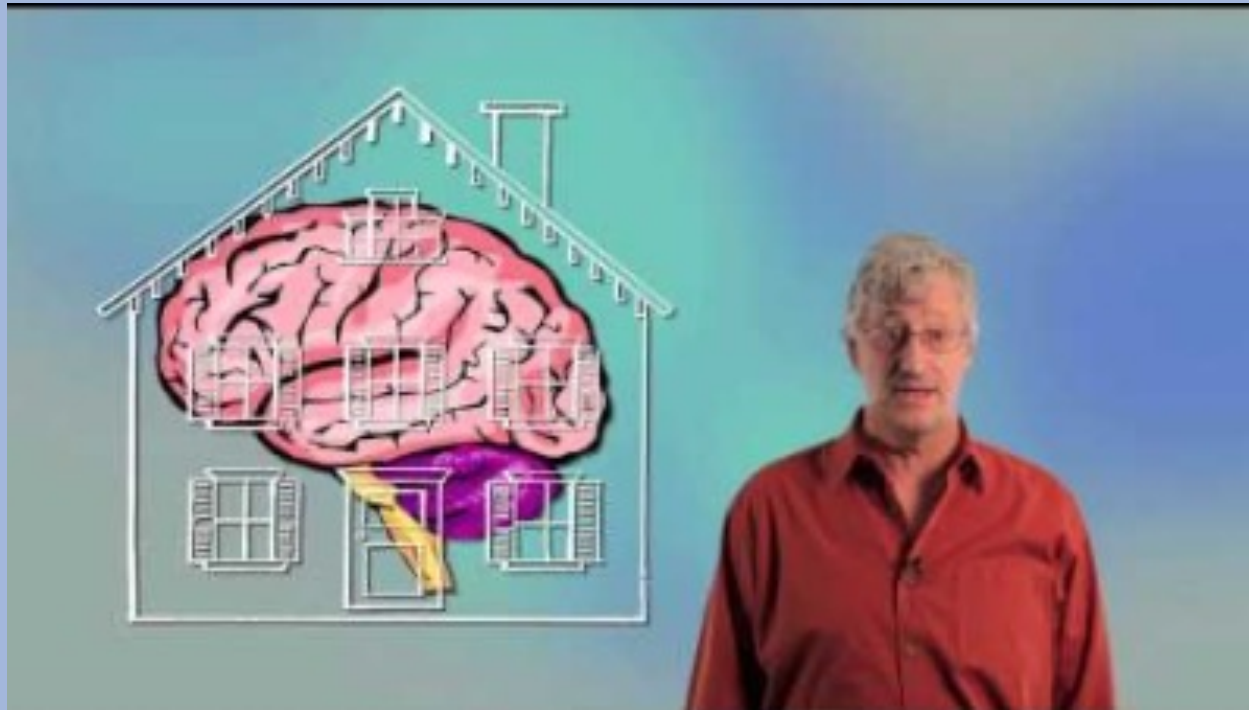
- ❖ Prosecutors are public servants who must
 - ❖ Act with integrity and balanced judgment
 - ❖ Make impactful decisions
- ❖ ABA Standard for the Prosecution Function 3-1.7(f): "The prosecutor should not permit the prosecutor's professional judgment or obligations to be affected by the prosecutor's personal . . . or other interests or relationships."

Prosecutor Skill Set and Well-Being

Prosecuting effectively requires:

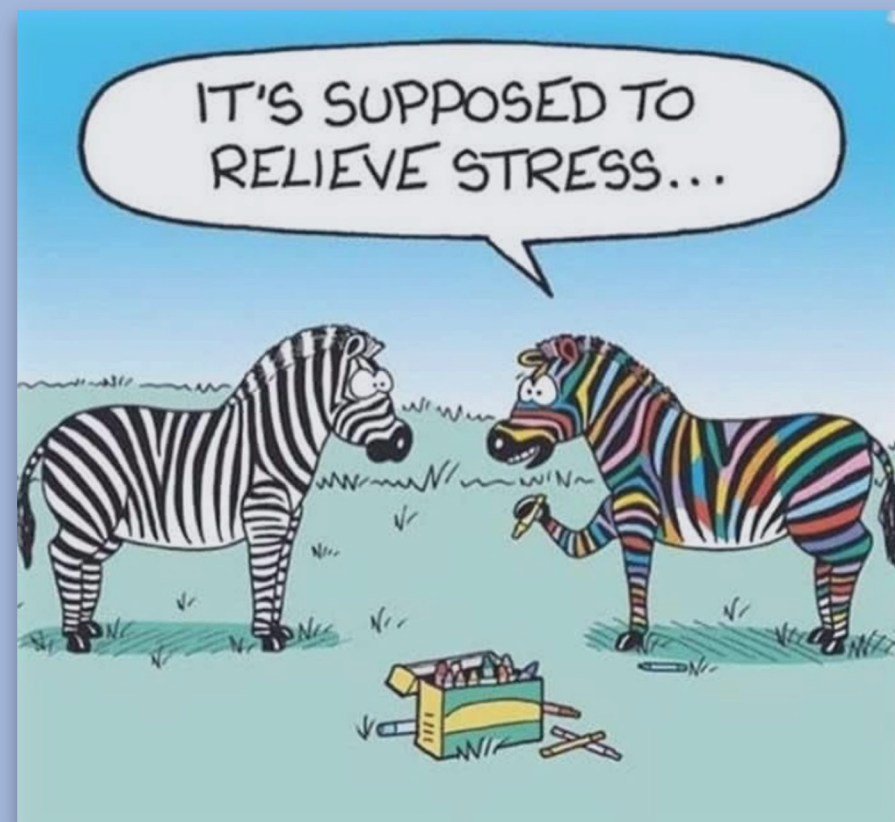
- ❖ Effective advocacy
 - ❖ Public speaking requires mental focus and clarity
 - ❖ Communicating to juries
- ❖ Competence in many “soft skills”
 - ❖ “Hold space for others”
 - ❖ People skills - connect with individuals from all walks of life
 - ❖ Civility and decency
 - ❖ Compassion and empathy

Neurobiology of Stress



Prosecutors and Stress

- ❖ Stress/ Chronic Stress:
 - ❖ “Zebras don’t get ulcers”
 - ❖ When we speak about stress with humans, it’s not typically because our life is threatened.
 - ❖ In addition, there is something unique about humans such that our thoughts can add to our stress.
 - ❖ Continued stress and the body being in that stress-response state does long term physical damage.



What is Trauma?

According to the Substance Abuse and Mental Health Services Administration:

“Individual trauma results from an event, series of events, or set of circumstances [one can suffer from all three at the same time; i.e. they may overlap and have a compounding effect] experienced by an individual as physically or emotionally harmful or life threatening with lasting adverse effects on the individual’s functioning and mental, physical, social, emotional, or spiritual well-being.”

Places Prosecutors Encounter Trauma

- ❖ Interacting with crime survivors and witnesses
- ❖ Interacting with family members of the deceased
- ❖ Interacting with family members of those charged
- ❖ Interacting with people charged with crimes
- ❖ Sentencing - watching someone go to jail knowing you were part of it
- ❖ Trial - interacting with jurors with trauma
- ❖ Getting threatened - death threats/threats by family/ad hominem attacks in court
- ❖ Media attention to work
- ❖ Inherent bias + issues in criminal justice system
- ❖ Inherent inequality in the system / lack of ability to do anything about it from an individual perspective
- ❖ Having something happen to a victim you said you would protect
- ❖ Going into the work to help people and harming / being seen as harming people
- ❖ Dinner party - people's response to your job

Working with Stress AND Trauma

- ❖ Stressful events in life are inevitable and healthy amounts of stress can be positive and motivating
- ❖ Excessive amounts of negative stress can wear down your body
- ❖ Now compound that stress with working with traumatic content
- ❖ Everyone is different in how they cope with/recover from traumatic stress. The individual is impacted by intrinsic factors and extrinsic factors:
 - ❖ Intrinsic: our biology, our personality, our abilities, any mental health issues, and previous trauma memories/coping skills that inform the present
 - ❖ Extrinsic: intergenerational histories, communal/familial support, access to therapeutic resources, access to basic resources, safety of environment, and the ability to ensure safety

Significant Consequences of Working with Stress and Trauma

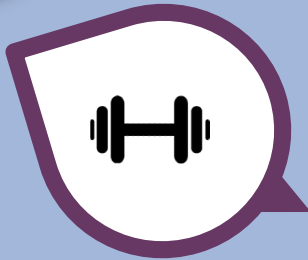
- ❖ According to William Steele in *Reducing Compassion Fatigue, Secondary Traumatic Stress and Burnout*, the following are 5 significant consequences of working with stress and trauma.
- ❖ Burnout:
 - ❖ Happens over time in any work environment, based on exhaustion from work demands
 - ❖ Specific to work culture/practices
 - ❖ Increased risk for compassion fatigue
- ❖ Compassion Fatigue (CF) (Originally coined in emergency rooms but expanded to a wide range of helping professions)
 - ❖ CF occurs over time where a person loses the ability to have compassion toward the people who they are helping, typically people who are traumatized or suffering

Significant Consequences of Working with Stress and Trauma cont'd

- ❖ Secondary Traumatic Stress (STS): Triggered by direct/indirect exposure to trauma
 - ❖ Specific to those that work with the traumatized population, **but does NOT meet full DSMV criteria of PTSD**
 - ❖ May or may not co-exist with compassion fatigue and/or Secondary trauma
 - ❖ Vicarious Trauma (VT): similar to STS and coined around the same time, but includes the shift in world view
 - ❖ Specific to those that work with the traumatized population
 - ❖ **STS + shift in worldview**
 - ❖ Post-Traumatic Stress Disorder (PTSD): Triggered by direct/indirect exposure
 - ❖ Must meet all the following DSMV criteria: <https://www.brainline.org/article/dsm-5-criteria-ptsd>
- *Please note: A diagnosis of any mental health disorder can only be made by a licensed professional.*

"As a prosecutor, why should I care?"

PHYSICAL:
Chronic Exhaustion/Physical ailments
Substance Abuse/Addictions



OCCUPATIONAL:
Sense of persecution - loss of sense of agency in one's own life
Trouble with Decision Making
Missed Opportunities



SPIRITUAL & GREATER PURPOSE:
A sense that one can never do enough
Negative world view
A loss of connection to living

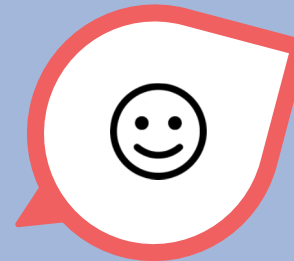


6 AREAS OF WELLNESS

INTELLECTUAL/CREATIVE:
Diminished Creativity
Foggy thought process
Lack of organization



EMOTIONAL:
Uncomfortable feelings of guilt, fear, anger and cynicism
Dissociative moments / feeling detached
Feeling helpless/hopeless
Minimizing
Grandiosity
Avoidance
Intrusive thoughts
Numbing



COMMUNITY/SOCIAL CONNECTIONS:
Isolation
Inability to empathize
Strained (work and personal) relationships
Extreme concern for safety in relation to others



Exercise

Why Did You Choose This Work?

Personal History, Culture, and Race

- ❖ Consider how your own history of hardship, pain, suffering or trauma brought you to this work
- ❖ Consider what ways your cultural history and race may impact your work

Reflect on how your own culture informs your beliefs on wellness. What are the cultural norms/beliefs you have around self care, wellness, or mental health? How do these beliefs impact the way you respond to stressors in your work and life?

Racialized Trauma and the Prosecutor Experience

- ❖ Racialized trauma is embedded in every human due to the racist history of the world and our country. In fact, scientists have found that this intergenerational transmission of trauma has been transmitted through changes in epigenetics
- ❖ Though individuals and their unique experiences contribute to one's ability to cope and heal from racialized intergenerational trauma, being aware of its presence can help you identify certain stressors on your wellness journey
- ❖ The criminal justice system has a disparate and historical impact on communities of color. Prosecutors, particularly prosecutors of color, may have a complex relationship with their role in prosecuting cases

Prosecutorial Wellness and Culture

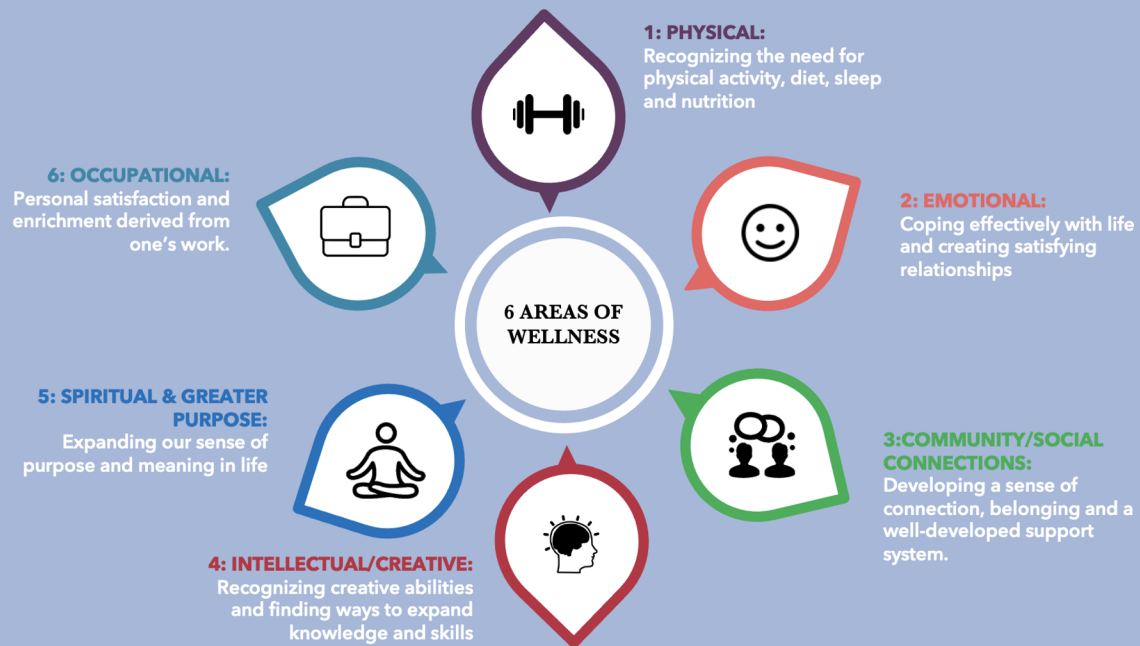
- ❖ Culture and historic attitudes can contribute to a stressful environment.
 - ❖ Heavy caseloads, long hours and unpaid overtime
 - ❖ Age of workforce
 - ❖ Inherent work ethic that attracts people to the legal profession (i.e. typically hiring the top performing students)
 - ❖ Prevalence of alcohol at social events
 - ❖ Prosecutors are often applauded for being “tough minded”
 - ❖ There may be a culture that seeking help or showing vulnerability is considered weak

Prosecutorial Passion & Boundaries

- ❖ Passion can help prosecutors perform well and enjoy their work.
- ❖ Sometimes, however, prosecutors can be taken over by passion and lose sight of their role.
- ❖ Being overtaken by prosecutorial passion is normal and expected. Any human being who is working with individuals who have been brutally victimized is susceptible to these strong emotions and biased tendencies. Awareness is the first step in balancing prosecutorial passion.
- ❖ Prosecutors must check in with themselves and evaluate the boundaries they have between themselves and the case/crime survivor/victim's family/and defendant.



6 Areas of Wellness



6 AREAS OF WELLNESS

1: PHYSICAL:

Recognizing the need for physical activity, diet, sleep and nutrition



2: EMOTIONAL:

Coping effectively with life and creating satisfying relationships



3: COMMUNITY/SOCIAL CONNECTIONS:

Developing a sense of connection, belonging and a well-developed support system.



4: INTELLECTUAL/CREATIVE:

Recognizing creative abilities and finding ways to expand knowledge and skills



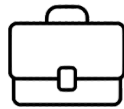
5: SPIRITUAL & GREATER PURPOSE:

Expanding our sense of purpose and meaning in life



6: OCCUPATIONAL:

Personal satisfaction and enrichment derived from one's work.



No One Solution

“Wellness is not a state of being, but a state of action”

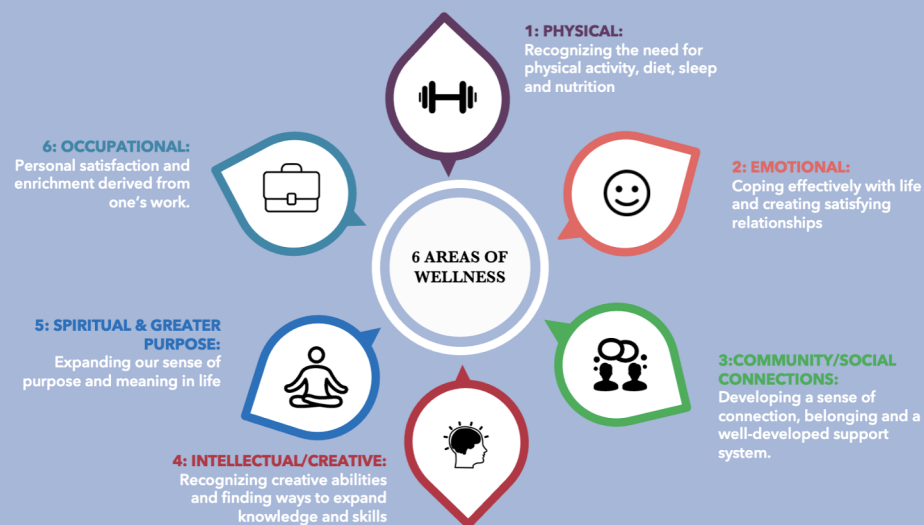
Nagoski & Nagoski, 2020



Goals

The goals of integrating processes into your life that enhance well-being include:

- ❖ Do your job more efficiently
- ❖ Improve job performance by improving overall happiness
- ❖ Prevent burnout
- ❖ Support your physical health
- ❖ Reduce instances of addiction
- ❖ Cultivate time + presence
- ❖ Enhance relationships





Physical Health

Physical health includes

- ❖ Caring for and being in touch with the the physical body
- ❖ Connecting with the breath
- ❖ Diet/nutrition
- ❖ Sleep/rest

The stress response causes the body to go into fight, flight, or freeze. Prolonged states in stress response can cause these hormones to remain elevated, leading to negative long term health outcomes. For example:

- ❖ Anxiety/depression
- ❖ Digestive problems
- ❖ Heart disease
- ❖ Sleep problems



Physical Health Practices

- ❖ Small acts that are kind to the body:
 - ❖ Drink water
 - ❖ Limit intake of substances (sugar, caffeine, alcohol, TV, social media)
 - ❖ Incorporate physical activity / move your body (walk, run, dance, yoga)
 - ❖ Pay attention to your breath
- ❖ Regularly complete the stress cycle (Nagoski & Nagoski, 2020).



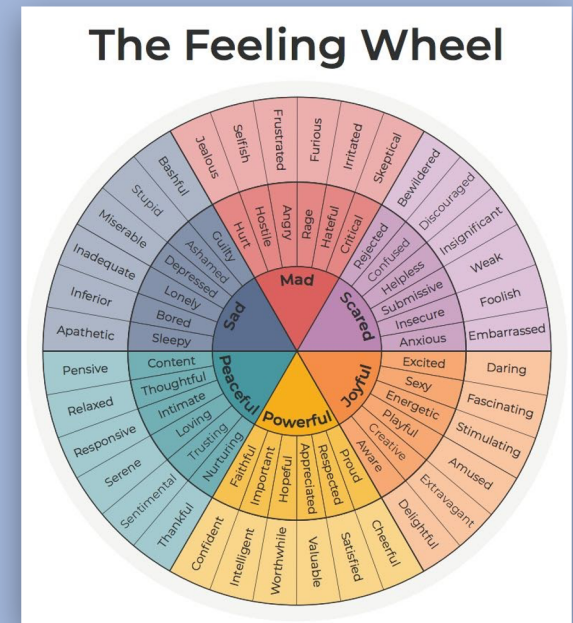
Emotional Health

- ❖ Mental health
- ❖ Feeling joy, fear, anger, disgust --- provide information
 - ❖ Your emotions are this incredible radar system that you can build with – use it!
- ❖ Relationships (family, significant other, friendships)
- ❖ Emotional intelligence
- ❖ Resilience
- ❖ Why is this important?
 - ❖ To be human, is to experience emotions
 - ❖ To create a rich and meaningful life with yourself and others
 - ❖ Emotions are not “bad”
 - ❖ Numbing out emotion numbs out all emotions
 - ❖ Prosecutors are often encouraged to operate without emotion about their cases



Emotional Health Practices

- ❖ Self study
- ❖ Pay attention to where you feel emotions in your physical body
- ❖ Use a feeling wheel to identify words (see image):
 - ❖ <https://cdn.gottman.com/wp-content/uploads/2020/04/The-Gottman-Institute-The-Feeling-Wheel.pdf>
- ❖ Admitting and practicing vulnerability
- ❖ Journaling
- ❖ Meditation
- ❖ Address perfectionism
- ❖ Check in on all/nothing thinking
- ❖ Practice dialectics (holding 2 opposite concepts at the same time)
- ❖ Practice mindfulness





Community/Social Connections

- ❖ The need for community, connection to others and a sense of belonging is paramount
- ❖ Isolation and loneliness are not good for overall well-being
- ❖ Completing the stress cycle can be done by positive social interaction or affection with a person that you trust and feel safe with, such as a 6 second kiss/20 second hug (Nagoski & Nagoski, 2020).



Community/Social Connections Practices

- ❖ Take stock of communities you belong to
- ❖ Join + contribute to groups
- ❖ Cultivate your community + reliable support network
- ❖ Check your social media use
- ❖ Spend time disconnected from your phone



Creative/Intellectual Endeavors

- ❖ Diminished creativity can be a trauma exposure response.





Creative/Intellectual Practices

- ❖ Make time to do something creative that you feel drawn to -- write, draw, paint, dance
- ❖ Read
- ❖ Play
- ❖ Take time off
- ❖ Move your body
- ❖ Seek out new experiences

**TO LIVE A
CREATIVE
LIFE WE MUST
LOSE OUR
FEAR OF
BEING WRONG**

Joseph Chilton Pearce



Spirituality/Greater Purpose

- ❖ A sense of purpose or meaning in life, as sense of connection to something greater, and/or a sense that we are all connected.

“He who has a why to live for can bear with almost any how”

Friedrich Nietzsche



Spirituality/Greater Purpose Practices

- ❖ Get closer to nature - take a walk in the woods, pet an animal, watch a sunrise or sunset
- ❖ Practice curiosity
- ❖ Consider alternative perspectives
- ❖ Meditate



Occupational Pursuits

- ❖ Personal satisfaction and enrichment derived from one's work
- ❖ Work v. job
- ❖ Consider finances and savings
- ❖ Consider future employment options
- ❖ Ask yourself why you are doing this job

Are you taking actions that are moving you toward your values or away from them (Harris, 2019)?

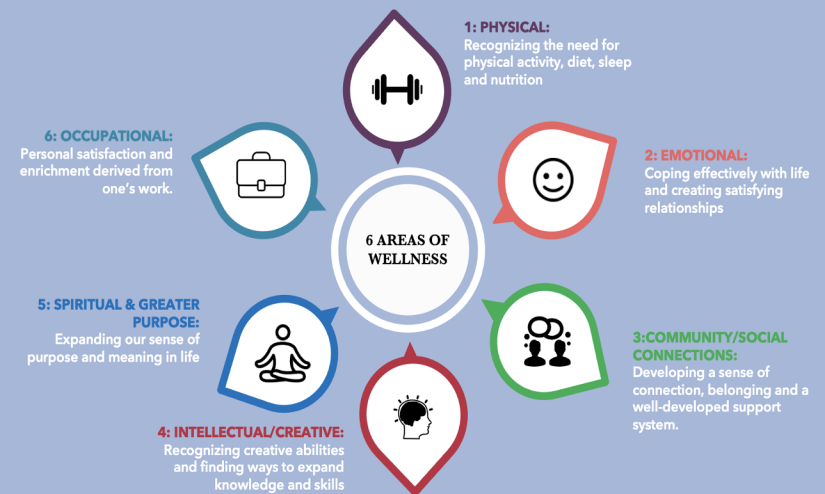


Occupational Pursuits Practices

- ❖ Do a self-evaluation - what am I passionate about and what is my job
- ❖ Do a skills evaluation - what skills do I have that other people don't, what is easy for me?
- ❖ Network with people outside of the office, learn about other ways to use your skills
- ❖ Attend trainings and lectures to learn about other lines of work
- ❖ Cultivate mentors

Suggestions for Prosecutors' Offices

- ❖ Enlist leaders
- ❖ Launch a well-being committee
- ❖ Identify needs within your office
- ❖ Create an action plan to support employee well-being
- ❖ Create a community where employees feel supported
- ❖ Devote resources and policy decisions to culture improvement in your office
- ❖ Support employees with substance abuse and mental health issues
- ❖ Attract a diverse workforce
- ❖ Continually evaluate, measure and improve



List Your Office Resources Here

*“Yesterday I was clever, so I wanted to change the world.
Today I am wise, so I am changing myself.”*

Rumi