

# Empathy and Compassion in the Practice of Law

BY MARGARET KAPITAN

Prestige, debate, specialization, intellectual stimulation, professional challenge, and earning potential are several common perceptions of why someone chooses to become a lawyer. While these factors are certainly important and motivating, another major consideration is a deep desire to help people during extremely challenging chapters of their lives. This prosocial drive pushes attorneys and judges to give their time, effort, and focus, as well as their mental and emotional energy, to complex and even tragic issues.

Helping others has personal benefits: it's fulfilling and grants a strong sense of purpose. At the same time, those who willingly enter a helping professional role can expect that high levels of empathy and compassion are in constant demand. This can be emotionally, mentally, and even physically exhausting, increasing the chance of burnout and empathic strain.

Empathic strain symptoms include self-isolation, emotional numbing, feelings of hopelessness, obsessive and intrusive thoughts, shame, and somatization (i.e., the physical

expression of mental and emotional stress).<sup>1</sup> Empathy and compassion function in different ways; understanding this distinction can help to improve communication with clients, colleagues, and loved ones, and may even help prevent empathic strain.

## Understanding Empathy

In the simplest terms, empathy involves feeling *with* another. Empathy is both a skill that we can intentionally use and a wired-in social function within our brains. It's part of our survival function as a species. Recent studies have focused on improving our understanding of neurological functions and processes of empathy. This work has suggested that empathy is based on our mirror neuron system, noting that the same neural activity is present when we observe an action as when we complete the action ourselves.<sup>2</sup> Additionally, the research found that the same areas of the brain are activated when we observe emotional states and facial expressions as when our brains are generating our own emotions.<sup>3</sup>

Understanding how empathy leads us to "take on" another person's emotional experience

helps us better understand why extensively engaging in empathy can lead to empathic strain. Expanding this natural process into a skill set requires us to intentionally engage in prosocial behaviors. These can include exposing ourselves to differences, engaging in character-driven storytelling, seeking common ground with others, challenging automatic assumptions about people and behaviors, and leading with curiosity when encountering others.<sup>4</sup>

## When to Lean Into Empathy

The "helpers" of the world, especially those who chose a profession rooted in advocacy and seeking justice for their fellow humans, can have high levels of empathy, resulting in a significantly higher risk of experiencing empathic strain. So, what can we do? Can we somehow turn off empathy for self-preservation? How is one to know when to lean into their empathic skill set and when not to? As a complicated species, the answers to these questions require nuance and respect for the experience of being human. Below are a few settings where it can be helpful to lean into empathy:

- **When building new relationships:** Empathy strengthens our ability to understand and connect with others. When building new relationships, practicing empathy can strengthen these bonds and increase our sense of connection more quickly.
- **During conflict management:** When in conflict with loved ones or colleagues, it's easy to feel "right" while the other person is "wrong." This righteousness outside of the courtroom can disconnect us from that other person, and even villainize them in our eyes, making conflict resolution difficult. When we engage in empathy during conflict, we can remove these labels, see one another through a fair lens, and come to an agreement with more ease.
- **At the workplace:** We spend a significant amount of time at work and with our colleagues. Engaging in empathy in this setting can help to keep a strong sense of teamwork, keep the work distribution balanced, and improve working relationships.
- **When struggling to communicate:** If you are struggling to communicate with someone, or you're uncertain how to approach a difficult conversation, engaging in your empathy skills can help you to take the other's perspective. Doing so may allow you to share information in ways that make it easier to receive and understand. Empathy in communication can foster better understanding, increase emotional safety, and establish appropriate boundaries.

### Understanding Compassion

While it's common to hear empathy and compassion used synonymously, there are distinct differences in how we experience them and how they impact us. Empathy involves feeling *with* another, while compassion is feeling *for* another. For example, if a client comes in and shares a story in which they felt deeply betrayed, and as the listener, you are connecting to your own memories of betrayal to understand them, then you are empathically feeling that emotion *with* the client. Conversely, in the same situation, if you identify the emotions the other

person is feeling and in response feel a desire to find justice or give hope, you are responding with compassion. Compassion means you are feeling those emotions *for* the client and their experience, not *with* them. Compassion allows you to slow down and be present with another without experiencing their distress as your own, decreasing the risk of empathic strain and burnout in the long term.<sup>5</sup>


### When to Lean Into Compassion

While compassion is likely a strong suit for those in helping professions, a strong reactive response of empathy can put compassion in the back seat. So, how do we know when to make the shift and lean instead into compassion? Below are a few situations where empathic strain is likely and compassion may be the more effective approach.

- **When experiencing high stress levels:** Engaging in empathy can lead to us feeling not only our own stress, but also the additional stress and emotions of others, leading to overwhelm and an increased risk of empathic strain. When stress is high, prioritize feeling through your own emotions, and use compassion to connect with others. Compassion allows you to keep your emotions as your own, and other's emotions as their own.
- **When working with traumatized individuals:** Using compassion and maintaining the differentiation of yourself versus a traumatized client will better allow you to continuously show up for them in the helper role. Compassion is a strong motivator, and clients need professionals helping them to have the capacity to keep working and seeking resolution and justice.
- **When symptoms of empathic strain emerge:** When empathy engagement blurs the line between self and other, empathic strain can occur. The signs of empathic strain include guilt, dread, resentment, loss of hope, and a decreased ability to continue holding empathy and a sense of emotional numbing. Experiencing these symptoms indicates that a shift into compassion, which allows for that

separation of self, may be beneficial. In the long term, these symptoms can lead to burnout.

### Conclusion

Every situation is different, and whether to use empathy or compassion is not always black and white. But it is beneficial to understand the difference between the two, their functions, and how to be more intentional in the ways you connect with others. If you notice yourself, or someone you care for, experiencing the symptoms of empathic strain, consider reaching out to the Colorado Lawyer Assistance Program (COLAP) at [info@coloradolap.org](mailto:info@coloradolap.org) or (303) 986-3345 for a consultation and/or tailored referrals. 

For more well-being related strategies, visit the COLAP website at [www.coloradolap.org](http://www.coloradolap.org). Or contact COLAP at [info@coloradolap.org](mailto:info@coloradolap.org) or (303) 986-3345 to request a free, confidential well-being consultation.

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### NOTES

1. "Empathy Fatigue: How Stress and Trauma Can Take a Toll on You," Cleveland Clinic (June 25, 2021), <https://health.clevelandclinic.org/empathy-fatigue-how-stress-and-trauma-can-take-a-toll-on-you>.
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3. *Id.*
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