

# The Relationship between Workplace Incivility and Well-Being in Administrative Court Judges

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Judicial stress is an important area of study, as judges' decisions have life-altering consequences for the immediate parties and, sometimes, society in general. Although there are numerous studies of judicial stress, few have specifically investigated the relationship between judicial stress and workplace incivility (i.e., rude or condescending behavior with ambiguous intent). This survey investigated relationships between workplace incivility and judicial stress, health, and job outcomes in a group of administrative judges. Overall, judges reported moderate levels of stress and low exposure to incivility. They indicated that incivility is a moderate problem, with attorneys as the most common source of incivility. Supporting the Model of Judicial Stress, workplace incivility was positively associated with levels of stress and compassion fatigue and negatively associated with job satisfaction. The relationships between incivility and measures of mental health, physical health, and compassion fatigue were all mediated by stress. Implications for judicial stress interventions include the need for judicial training and interventions to curb incivility.

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Stress can negatively affect decision-making, life satisfaction, mental health, and physical health for people who have contact with the legal system,<sup>1</sup> including judges.<sup>2-6</sup> Judicial stress has potentially far-reaching consequences, as judges directly affect the lives of defendants, litigants, and victims through their rulings and sentencing. Judges also indirectly affect others through the creation of case law, which sets precedent for later cases. The Model of Judicial Stress (MJS) posits that individual characteristics (e.g., gender, race), job characteristics (e.g., caseload), and environmental characteristics (e.g., crime awareness) lead to stress and have both personal outcomes (e.g., life satisfaction) and job outcomes (e.g., job performance).<sup>7</sup> The current study

tests the relationships between workplace incivility and stress, health, and job outcomes.

Workplace incivility is “rude, condescending, and ostracizing acts that violate workplace norms of respect, but otherwise appear mundane” (Ref. 8, p 299). Incivility is related to, among other things, work withdrawal, job stress, psychological distress, job satisfaction, co-worker and supervisor satisfaction, creativity, task performance, helpfulness, intention to quit, marital satisfaction, and depression. Incivility has been examined in various workplaces<sup>8</sup> but has not yet been studied in judges.

As with many psychological phenomena, the effects of incivility are not uniform. There are individual differences in the experience of stress, which might relate to full- or part-time status, gender, or time on the bench. The current study investigates these differences. Previous studies investigated stress among judicial branch judges, not administrative law judges, as does the current study. (Edwards *et al.*<sup>9</sup> compared the two groups of judges on other measures.) Comparing types of judges is important because judicial work is not uniform and

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might therefore differentially relate to stress. For instance, general jurisdiction judges report less trauma than other types of judges.<sup>10</sup>

The current study investigates whether incivility is related to health and job outcome measures (i.e., job satisfaction) and whether these relationships are mediated by stress as would be predicted by the MJS; how much incivility judges experience and which groups (e.g., attorneys, other judges) are the source of that incivility; and whether such relationships are related to judges' gender, time on bench, or full-time versus part-time status.

### Judicial Stress

Judges experience symptoms of work-related burnout (e.g., excessive responsibility, safety concerns)<sup>2,11</sup> and depression at rates higher than the general population.<sup>4</sup> These components of stress are a significant problem for judges and courts. Over 25 percent of judges reported missing 10 or more days of work the previous year because of stress.<sup>12</sup> Judicial absenteeism places burdens on backlogged and understaffed courts. When judges miss work, either other judges have to take on extra workloads or the courts' business is delayed. And, when judges continue to work despite high levels of stress, they risk doing a poor job, as high stress is not conducive to optimal job performance. Some judges admit that stress affects their job performance.<sup>4</sup> In addition, stress can affect judges' expectations and beliefs about themselves and others (e.g., persons appearing in court),<sup>6</sup> and increased judicial stress is correlated with lower job efficacy (e.g., feeling like a failure).<sup>12</sup>

Judicial work necessarily entails a high degree of conflict. To some extent, judges, as impartial arbiters, are above the fray. They referee while opposing counsel challenge one another and each other's witnesses. Yet, judges are not immune. Attorneys often argue strenuously with judges in court and in chambers. Attorney behavior is one of the leading causes of stress among judges,<sup>4</sup> suggesting that such confrontations can take a toll. Judges also interact with litigants, law enforcement officers, courthouse security personnel, other judges, court reporters, and bailiffs. This study focuses on the tenor of such interactions (under the rubric of workplace incivility) and its relationship to judicial stress.

### Model of Judicial Stress

The current study uses the MJS, which suggests possible causes and outcomes associated with stress

in judges.<sup>7</sup> MJS was developed using previous stress research and uses a Constructivist Self-Development Theory framework to understand outcomes related to stress; specifically, that experiences of stress or trauma might negatively affect a person's perceptions of safety or capacity for trust, self-esteem, intimacy, and control.<sup>6,12</sup>

MJS posits that there are three categories of characteristics that might contribute to judges' perceived stress or safety concerns: personal characteristics, job characteristics, and environmental characteristics.<sup>7</sup> Personal characteristics include demographic variables (e.g., age, gender), personality traits (e.g., empathy, idealistic views), and nonwork problems. Job characteristics include occupational variables, such as frequency of stressful trials and caseload. Finally, environmental characteristics include judges' level of crime-awareness and faith in law enforcement.<sup>7</sup> All three characteristics are predicted to relate to judges' level of stress and concern for safety. Safety concern is also predicted to relate to judges' stress levels.

MJS then predicts that stress will have personal and occupational outcomes. Personal effects might include negative effects on mental or physical health, life satisfaction, or relationship quality. Job effects might include negative effects on job performance, job satisfaction, or decision quality.<sup>7</sup>

Many tenets of MJS have been supported by previous empirical research.<sup>4,10,12</sup> One variable that might theoretically fit within MJS and has yet to be tested in relation to judicial stress is courtroom (workplace) incivility.

### Outcomes of Stress

Although incivility has not been well studied as a cause of stress for judges, the outcomes of judicial stress have gained a lot of attention from scholars in the last 15 years. Thus, if MJS is correct, incivility could indirectly lead to negative outcomes if it indeed causes stress. Generally, higher levels of stress are associated with impaired attentional control,<sup>13</sup> increased memory impairment,<sup>14</sup> worsened mood,<sup>15</sup> and reduced executive functioning and capacity for information processing (especially if the stressor is perceived as a threat).<sup>16</sup> Judges' stress can relate to reductions in productivity, efficiency, concentration,<sup>4</sup> mental health,<sup>12</sup> job efficacy,<sup>12</sup> and job satisfaction.<sup>12</sup>

The current study assesses whether incivility relates to mental health, as measured by the Depression, Anxiety and Stress Scale (DASS-21), which is a

measure of general mental distress.<sup>17</sup> Higher levels of stress relate to increased symptoms of generalized anxiety disorder (e.g., being “on edge”), increased worry, increased negative affect, and increased psychological strain.<sup>17,18</sup> These results occur consistently across clinical and nonclinical samples as well as across different ethnicities and cultures,<sup>19</sup> although it has yet to be tested in a judicial sample. Judges’ depression scores are very close to the psychological cutoff for depressive impairment,<sup>4</sup> highlighting the need for studying judicial stress and its relationship to mental health.

Stress could also result in compassion fatigue: emotional and physical exhaustion stemming from continued empathic engagement with people who are suffering.<sup>20</sup> Compassion fatigue has two constructs: secondary trauma refers to stress acquired from helping another person through a traumatic experience,<sup>20</sup> whereas burnout refers to physical and mental exhaustion.<sup>21</sup> People with occupations associated with caring for others, such as hospital workers and mental health professionals, experience elevated levels of compassion fatigue, which relates to increases in PTSD-like symptoms and other negative outcomes.<sup>11,22</sup> Judges can experience secondary trauma and burnout, as measured by self-report,<sup>23</sup> interviews<sup>2</sup> and surveys.<sup>11,24</sup> Thus, it is important to understand stress and compassion fatigue.

### **Individual Differences Related to Stress**

Demographic differences often relate to stress levels and stress-related outcomes. Female judges report higher levels of general stress<sup>4</sup> and burnout<sup>25</sup> than males. Further, female judges are more likely to experience secondary stress, and when they do, they display more symptoms.<sup>5,25</sup> Conversely, males reported more missed workdays and poorer physical health but did not differ from females in mental health, stress, or job-related outcomes.<sup>10</sup>

Judicial experience is also related to stress levels, as judges who have been on the bench over 10 years report significantly higher rates of burnout than their less experienced counterparts.<sup>10</sup> Additional individual differences that could relate to judges’ experiences of stress include employment status (i.e., full-time versus part-time). The current study investigates such differences in both stress and experiences of incivility.

### **Workplace Incivility**

Incivility in the workplace encompasses various norm-violating acts that are ambiguous in intent.<sup>8</sup>

The acts could be interpreted as condescending to some people but mundane to others. A key component differentiating uncivil behaviors from aggressive behaviors is the ambiguous intent or lack of intentionality on either the part of the instigator or the target of the incivility.<sup>26,27</sup> Some examples of workplace incivility include: interrupting or belittling other people; using a demeaning tone of voice; making jokes at others’ expense; using microaggressions, or addressing colleagues inappropriately.<sup>28,29</sup>

Incivility is such a common occurrence in the workplace that it is practically ubiquitous and can be experienced by anyone.<sup>8</sup> Social power theory and selective incivility principles posit, however, that certain groups are at greater risk of experiencing incivility; in particular, employees with less social power and employees belonging to stigmatized identity groups (e.g., women, minorities) are at higher risk of experiencing workplace incivility.<sup>30–32</sup>

Research consistently supports a relationship between incivility and increased stress.<sup>26,33,34</sup> This stress can occur both directly in targets of incivility (i.e., victims) as well as indirectly in observers of incivility.<sup>8,27</sup> In addition, incivility (whether experienced as a direct target or indirect observer) relates to lower levels of job performance, institutional satisfaction, psychological well-being, and affective occupational commitment. Incivility also relates to higher levels of occupational withdrawal and burnout.<sup>34–36</sup>

For decades, legal professionals have acknowledged that incivility is a problem.<sup>31,33,37</sup> Attorneys offered examples of uncivil behaviors ranging from unreasonable scheduling to harassment during trials and depositions to refusals to comply with requests from opposing counsel (e.g., discovery requests).<sup>33</sup> And, although nearly two-thirds (62%) of attorneys surveyed reported experiences of incivility during litigation over the past 5-year period, women were much more likely to report experiencing incivility (73% for women versus 49% for men).

Although past research has examined attorneys’ experiences with incivility,<sup>33</sup> there is no research involving judges’ experiences with workplace incivility. Because of this lack of research, it is unknown what individual differences among judges (e.g., gender, time on the bench, full-time versus part-time status) might relate to experienced incivility or its outcomes. The current study examines these specific factors and, therefore, extends research on incivility in the legal profession.

## Overview of Study

Administrative judges completed a survey with measures of incivility, stress, health, demographics, and job characteristics (e.g., time on bench) to address these Research Questions:

RQ1: How much incivility do judges experience? Does this vary by individual differences (i.e. gender, time on the bench, and full-time versus part-time status)?

RQ2: Which groups are the biggest sources of incivility? (e.g., attorneys, co-workers)? Does this vary by individual differences?

RQ3: Do judges believe incivility is a problem? Does this vary by individual differences?

RQ4: What are judges' mean scores on measures of stress, job satisfaction, job performance, mental health (i.e., DASS-21) and physical health? Do these scores vary by individual differences?

RQ5: Does incivility directly relate to stress? And, does incivility relate to outcome measures (job satisfaction, job performance, health) indirectly through stress? Do the relationships vary by individual differences?

## Method

### Procedure and Participants

This study was approved by the Institutional Review Board at the University of Nevada, Reno. Participants included 119 administrative judges who attended a half-day Continuing Legal Education trainings for administrative judges. All judges in this state are required to attend a specified number of Continuing Legal Education trainings in each 3-year period. This was the only such training offered at this time and venue, but judges could choose from other trainings to fulfill their requirements over the three-year period. The first author presented information on stress, with intermittent survey questions which appeared on the presentation screen and judges used a remote-control device to indicate their responses. Computer software saved each judge's responses anonymously and downloaded responses into a database. Participants were 57.9 percent female; 43.1 percent had served more than 10 years on the bench; and 63.2 percent worked full-time. Administrative Law Judges routinely hear cases related to licensures (e.g., suspension of daycare or real estate licenses) or disputes with government agencies (e.g., special education services, worker's compensation, social security benefits). They are part of the executive branch, not the judicial branch. In

the state the judges are from, the judges traveled to hearings rather than having their own permanent courtroom. This is a large state in the western half of the United States that has both urban and rural areas. Judges from the entire state were invited to attend, though no data are available as to the proportion that attended from urban versus rural areas. The training was held in a moderate sized city in the southern half of the state. As with most states and federal government, administrative judges in this state are appointed, not elected. They are both the judge and the trier of fact and thus do not have jury trials. Due to anonymity and time considerations, the organizers of the training did not permit collection or publication of more information about the judges.

### Materials

Judges self-reported levels of incivility, stress, mental health, physical health, job satisfaction, job performance, compassion fatigue, and demographic information.

### Incivility Scale

The authors created the Workplace Incivility Scale-12 (see Table 1) by modifying three previously published relevant scales to make a scale most relevant to judges.<sup>31,33,38</sup> The scale is the average of responses to a 12-item Likert-type scale that measures levels of witnessed or received incivility. Responses were measured on a 5-point scale from 1 (*never*) to 5 (*daily*) and included items such as "How often have you experienced or witnessed someone be condescending toward you or a co-worker?" In making the scale, we included 23 possible items. Many judges chose not to answer some of the questions, making their inclusion in statistical analysis impossible. These questions were eliminated from the original 23 items. Other questions did not correlate well with the final 12 items, which had a high reliability. (The reliability of the final 12 items is  $\alpha = .92$ ; reliability testing is done to ensure that all items are closely related and measure one construct. This allows us to combine all 12 items into one scale and do one analysis, instead of doing 12 separate analyses.) Thus, the questions that were statistically unrelated to the others were eliminated from the original 23 items.

Two additional questions about incivility were developed by the authors. The first defined interference, exclusion, and denigration, then asked, "What type of person with whom you regularly interact is most likely to engage in these kinds of behaviors?" Response options were supervisors or other judges;

**Table 1** Workplace Incivility Scale-12

The following variable(s) measured from 1 (never) to 5 (daily)

1. How often have you experienced or witnessed someone be condescending toward you or a co-worker?
2. How often have you experienced or witnessed someone ignore or show no interest in your or a co-worker's opinion?
3. How often have you experienced or witnessed someone address you or a co-worker in an unprofessional manner?
4. How often have you experienced or witnessed someone speak to you or a co-worker in a loud, angry, or hostile manner?
5. How often have you experienced or witnessed someone doubt your or a co-worker's judgment on a matter in which you/they have responsibility?
6. How often have you experienced or witnessed someone subject you or your co-worker to negative comments about your/their intelligence or competence?
7. How often have you experienced or witnessed someone subject you or your co-worker to excessively harsh criticism about your/their work?
8. How often have you experienced or witnessed someone inappropriately interrupt you or a co-worker?
9. How often have you experienced or witnessed someone interfere with you or your co-worker's activities?
10. How often have you experienced or witnessed someone blame you or your co-workers for other people's mistakes?
11. How often have you experienced or witnessed someone reject your order/advice or refuse to listen to your requests?
12. How often have you experienced or witnessed someone not keep you fully informed of important details (either by accident or intentionally)?

co-workers or support staff; attorneys; litigants; and other. The second question asked, "To what extent is lack of incivility in interpersonal behavior in your job a problem?"; participants responded on a 5-point scale from 1 (*not at all*) to 5 (*very much*).

### Stress

Stress was assessed via a one-item question, "How much stress have you experienced over the past year?" with a 5-point scale from 1 (*no stress*) to 5 (*extreme stress*). This question was adapted from Miller *et al.*<sup>10</sup> and Miller *et al.*<sup>12</sup>

### Physical and Mental Health

Physical health was assessed on a 5-point scale from 1 (*poor health*) to 5 (*excellent health*) via the question, "Please rate your current overall physical health." This item was used in Miller *et al.*<sup>10</sup> and Miller *et al.*<sup>12</sup> Mental health was measured with 21 items on the DASS-21.<sup>40</sup> Items are answered on a 1 (*did not apply to me at all*) to 5 (*applied to me very much, or most of the time*) Likert-type scale and included items such as "Over the past week, I felt that life was meaningless" (from the 7-item depression subscale), "Over the past week, I was worried about situations in which I might panic and make a fool of myself" (from the 7-item anxiety subscale). Items were averaged and reverse-coded such that higher scores indicated better mental health (reliability of these 21 items was  $\alpha = .85$ ).

### Job Satisfaction and Performance

Job satisfaction was measured via four items previously used in Miller *et al.*<sup>10</sup> and Miller *et al.*<sup>12</sup> Items included "Which of the following indicates how much of the time you feel satisfied with your job?" from 1

(*never*) to 5 (*all the time*); and "Which one of the following statements best describes how you think you compare with other people?" from 1 (*no one dislikes his/her job more than I dislike mine*) to 5 (*no one likes their job better than I like mine*). Responses were averaged and had acceptable Cronbach's  $\alpha$  ( $\alpha = .82$ ).

Perceived job performance was assessed via three items, adapted from Miller *et al.*<sup>10</sup> and Miller *et al.*<sup>12</sup> The questions were measured on a 5-point Likert-type scale from 1 (*absolutely not*) to 5 (*very much so*) and included questions such as, "Do you feel you are currently performing your job to the best of your abilities?" Responses were averaged ( $\alpha = .86$ ).

### Compassion Fatigue

Compassion fatigue (i.e., secondary trauma and burnout) was measured using the 13-item Compassion Fatigue Scale.<sup>21</sup> Items were answered on a 1 (*rarely/never*) to 5 (*very often*) Likert-type scale. The respondents read a prompt: "How often do you experience the following . . . ?" and then answered eight questions such as, "Felt trapped by my work" (burnout subscale), and five items such as, "Flashbacks connected to work" (secondary trauma subscale). As in Miller *et al.*,<sup>12</sup> to make the scale more relevant to judges, we changed words like "client" to "cases" or "people at work (e.g., victims of crime)." Responses were averaged into a single compassion fatigue score ( $\alpha = .92$ ).

### Results

Preliminary data analysis involved checking all variables for normality and computing descriptive statistics (i.e., frequencies, percentages, means) and identifying missing data. Because of the nature of data collection, if a judge was not in the room, had

trouble with the clicker, or was not paying attention, no responses could be collected during that time. This led to somewhat high levels of missing data. Of the 119 judges, nine responded to no questions, and an additional 15 judges failed to answer any questions on at least one scale, leaving 95 usable cases for analysis. When there was missing data on one or more questions in a scale for the 95 remaining cases, the mean of the judge's other responses to that scale was mean-imputed.

In accordance with the research questions surrounding JMS, a path analysis was conducted with incivility as an exogenous variable not influenced by other variables in the model,<sup>40</sup> stress as an endogenous variable, and job satisfaction, perceived job performance, compassion fatigue, mental and physical health as outcome variables. All descriptive statistics were performed by using the SPSS Statistical Package version 26, and model estimation analyses were performed using the R Package Lavaan.<sup>41</sup>

### Judges' Experiences of Incivility

With regard to RQ1, judges experienced moderately low levels of incivility ( $M = 2.34$  of 5). Scores did not differ by gender, as indicated by  $t$ -Tests,  $t(33) = .62$ ,  $p = .540$ ; full/part-time status,  $t(74) = -1.70$ ,  $p = .094$ ; or length of time on the bench,  $F(4,73) = 1.54$ ,  $p = .200$ .

As to RQ2, judges reported that incivility was most likely to stem from attorneys (41.33%), followed by litigants (30.67%), supervisors/other judges (16.00%), coworker support staff (8.00%), and other sources (4.00%). Chi-square tests indicated that source of incivility did not differ by gender,  $\chi^2(8, N = 75) = 11.18$ ,  $p = .190$ ; full/part-time designation,  $\chi^2(4, N = 72) = 4.51$ ,  $p = .341$ ; or length of time on the bench,  $\chi^2(16, N = 77) = 19.32$ ,  $p = .253$ .

For RQ3, judges rated incivility as only a moderate problem in their workplace ( $M = 2.48$  of 5). Results did not differ by gender,  $t(78) = -1.20$ ,  $p = .235$ ; full/part-time designation,  $t(82) = .05$ ,  $p = .961$ ; or length of time on the bench,  $F(4,82) = .84$ ,  $p = .505$ .

### Stress, Health, and Job Outcomes

RQ4: Out of a maximum score of five, judges experienced low levels of compassion fatigue ( $M = 1.91$ ), moderate levels of job performance ( $M = 3.13$ ), and somewhat high levels of stress ( $M = 3.48$ ). They also experienced high (positive) job satisfaction

( $M = 3.96$ ), and mental ( $M = 4.41$ ) and physical ( $M = 4.74$ ) health. No results differed by gender, full/part-time designation, or length of time on the bench (see Table 2).

### Path Analysis Testing the MJS

The MJS<sup>7</sup> posits that stress has direct effects on job- and health-related outcomes. The current study expands on this model by predicting that incivility will have direct effects on stress and outcomes, as well as indirect effects through stress. To test RQ5, a path analysis was conducted (see Fig. 1 for path model and results). Despite overall low levels of incivility in the workplace, incivility accounted for 39 percent of the variance associated with compassion fatigue, 37 percent of mental health, 24 percent of physical health, 19 percent of job satisfaction, 6 percent of stress, and 4 percent of perceived job performance.

In addition, the model's direct effects demonstrated that increases in incivility were associated with increased stress and compassion fatigue, and reduced job satisfaction (but not job performance). Incivility was only marginally associated with mental and physical health. Likewise, increased stress was associated with increased compassion fatigue and reduced job satisfaction, mental health, and physical health (but not job performance).

The indirect effects found in the path analysis also lend some support to RQ5. The mediation paths found that stress did not mediate the relationship between incivility and job satisfaction ( $\beta = .06$ ,  $z = -1.54$ ,  $p > .05$ ). After accounting for stress, the negative association between incivility and job satisfaction remained significant ( $\beta = -.38$ ,  $z = -3.38$ ,  $p = .001$ ). Stress did mediate the relationships between incivility and mental health ( $\beta = -.08$ ,  $z = -2.19$ ,  $p = .029$ ), physical health ( $\beta = -.17$ ,  $z = -2.05$ ,  $p = .041$ ), and compassion fatigue ( $\beta = .12$ ,  $z = 2.13$ ,  $p = .033$ ).

RQ5 also asked if any of the paths were moderated by gender, time on the bench, or full-time or part-time status. All but one of the moderation analyses were nonsignificant ( $ps > .05$ ). The relationship between stress and mental health appears to intensify the longer a judge is on the bench,  $F(1,84) = 6.47$ ,  $p = .013$ .

### Discussion

The purpose of this research was threefold: to investigate whether incivility is related to health and

**Table 2** Null Results for Gender, Full/Part-Time Designation, and Time on the Bench

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Gender results: compassion fatigue:  $t(81) = 0.33, p = 0.745$ ; job performance:  $t(81) = 0.043, p = 0.965$ ; stress:  $t(84) = 0.92, p = 0.359$ ; job satisfaction:  $t(81) = 0.98, p = 0.329$ ; mental health:  $t(84) = 0.44, p = 0.663$ ; physical health:  $t(82) = 1.20, p = 0.232$

Full/part time designation: compassion fatigue:  $t(82) = 0.25, p = 0.804$ ; job performance:  $t(82) = 0.58, p = 0.563$ ; stress:  $t(79) = 0.22, p = 0.829$ ; job satisfaction:  $t(82) = 0.62, p = 0.539$ ; mental health:  $t(78) = 0.14, p = 0.891$ ; physical health:  $t(77) = 1.38, p = 0.172$

Length of time on the bench: Compassion fatigue:  $F(4, 81) = 0.48, p = 0.747$ ; job performance:  $F(4, 81) = 2.14, p = 0.084$ ; stress:  $F(4, 77) = 0.24, p = 0.913$ ; job satisfaction:  $F(4, 81) = 0.60, p = 0.663$ ; mental health:  $F(4, 77) = 0.56, p = 0.693$ ; physical health:  $F(4, 76) = 1.20, p = 0.318$

**Gender**  
 Compassion fatigue:  $t(81) = 0.33, p = 0.745$   
 Job performance:  $t(81) = 0.043, p = 0.965$   
 Stress:  $t(84) = 0.92, p = 0.359$   
 Job satisfaction:  $t(81) = 0.98, p = 0.329$   
 Mental health:  $t(84) = 0.44, p = 0.663$   
 Physical health:  $t(82) = 1.20, p = 0.232$

**Full/part time designation**  
 Compassion fatigue:  $t(82) = 0.25, p = 0.804$   
 Job performance:  $t(82) = 0.58, p = 0.563$   
 Stress:  $t(79) = 0.22, p = 0.829$   
 Job satisfaction:  $t(82) = 0.62, p = 0.539$   
 Mental health:  $t(78) = 0.14, p = 0.891$   
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job outcome measures (i.e., job satisfaction, performance) and whether these relationships are mediated by stress as would be predicted by the MJS;<sup>7</sup> to investigate how much judges experience incivility and which groups (e.g., attorneys, other judges) are the source of that incivility; and to investigate whether such relationships were related to the gender, time on bench, or full-time versus part-time status of the judge.

**Main Findings**

This study allows us to make four basic conclusions. First, we determined that administrative judges experience a low amount of incivility in their workplaces and that attorneys and litigants were the primary sources of incivility. Supervisors or other judges were also a commonly mentioned source of incivility, whereas co-workers and support staff were rarely mentioned. Judges perceived incivility to be a moderate concern.

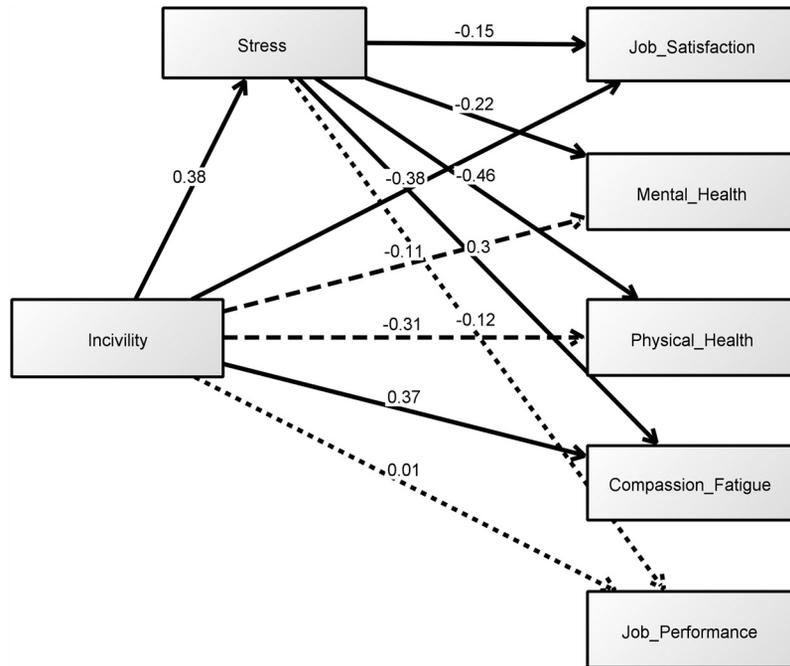
Second, judges reported relatively low levels of stress, moderate levels of job performance, and high levels of job satisfaction. They reported high levels of both mental health and physical health, and low levels

of compassion fatigue. All of these indicate that judges were experiencing generally positive well-being.

Third, our data generally support the MJS.<sup>7</sup> Incivility was associated with increased stress, reduced job satisfaction, and increased compassion fatigue. Incivility was somewhat related to reduced mental health and physical health, although these findings did not quite meet the conventional  $p < .05$  requirement for statistical significance. Furthermore, stress was associated with reduced job satisfaction, reduced physical health, reduced mental health, and increased compassion fatigue. In a more direct test of MJS, we found significant mediation pathways, such that incivility was related to stress, which in turn was related to mental health, physical health, and compassion fatigue.

Fourth, we found that these relationships were unaffected by gender, time on the bench, or full/part-time status. Although this is the first study we are aware of that tested for differences between full-time and part-time judges, past studies have found that gender relates to stress<sup>4</sup> and incivility.<sup>33</sup> Yet others have not found gender differences on most variables.<sup>10</sup> Perhaps these differences are a result of the measures

## Workplace Incivility and Well-Being in Judges



**Figure 1.** Path analysis representing direct and indirect relationships among variables. Solid lines represent significant path ( $p < 0.05$ ). Lines of large dashes represent marginally significant paths ( $p < 0.052$ ). Lines of small dots represent nonsignificant paths ( $p > 0.052$ ).

used; for instance, we used the same stress measure as Miller *et al.*<sup>10</sup> but did not replicate the gender difference found by Flores *et al.*,<sup>4</sup> who used a different measure of stress. Similarly, we used a different measure of incivility than Cortina *et al.*<sup>33</sup> and were unable to replicate their finding of a gender difference.

We found only one study<sup>10</sup> reporting that time on the bench related to burnout (a sub-part of compassion fatigue), but we were unable to replicate this direct relationship in our measure of compassion fatigue. That study did not find a direct relationship between time on bench and other measures (e.g., stress), and neither did we. We did find that the longer the time a judge has spent on the bench, however, the stronger the relationship is between stress and mental health. Future studies can investigate the complex relationships between these variables.

### Implications

Our results have a number of implications. First, we found that judges reported being healthy and performing well at jobs with which they were satisfied, despite being stressed at a moderately high level. This finding does not mirror other past studies,<sup>4</sup> which have found judges to experience somewhat higher levels of stress, compassion fatigue, and mental and

physical health concerns. The most likely explanation for these discrepant findings is that the current sample consisted of administrative judges, who differ in many ways from the traditional judge samples of previous studies. Specifically, many administrative judges do not have the same colleagues for an extended period of time but, rather, work with a rotating group of people; some travel frequently to the hearing sites and do not have dedicated offices; some work only part-time, are semi-retired, or nearing retirement; and some do not manage juries or large staffs. In addition, the cases handled by administrative judges might have fewer stress-inducing characteristics (e.g., grievously injured crime victims, responsibility of a jury). Any of these features, singly or in combination, could be associated with lower stress and more positive mental and physical health. Previous research has revealed that judicial stress varies as a function of factors such as social support.<sup>10</sup> It would therefore not be surprising if other individual and workplace characteristics, like those associated with administrative judging, as opposed to being a general trial judge, mattered as well.

Second, judges in the present study reported experiencing only low levels of incivility and thought that incivility was only a moderate problem. Still, the degree of incivility was related to numerous outcomes,

such as stress, reduced job satisfaction, compassion fatigue, and, to a lesser extent, mental and physical health. Incivility accounted for substantial portions of the variance of the stress, health, and job variables and thus does affect judges' well-being.

Findings suggest that, even though incivility and stress were not unduly high, they both should be addressed. The principles of Therapeutic Jurisprudence suggest that the legal system should consider the well-being of those it affects.<sup>42</sup> While the principles are most commonly applied to victims or defendants, or other wrong-doers, they can also be applied to court actors such as lawyers or judges.<sup>43</sup> Scholarship suggests the benefits that would result from an approach to lawyering that focuses on caring for others, whether the lawyers' own clients<sup>44</sup> or even those on the opposing side of the adversarial system.<sup>45</sup> Therapeutic Jurisprudence would suggest that science be used to promote the well-being of those affected by the legal system: that is precisely what this research attempted to do. The results of this study suggest that conditions in the workplace (e.g., incivility) could relate to well-being (e.g., stress); these conditions could be changed to better protect the legal actors in that workplace.

With respect to incivility, it is possible to promote changes in the workplace behavior of those who are the primary sources of incivility, that is, attorneys and litigants. Researchers have proposed interventions to reduce incivility and combat its effects. The target of these interventions is twofold: to increase the rate of civil interactions while simultaneously decreasing the rate of uncivil interactions.<sup>8</sup> Researchers have proposed trainings, which might include workshops, videos, and case studies, to help employers and employees recognize, address, and reduce workplace incivility.<sup>8</sup> It is possible that reinforcing desirable behaviors is more effective than punishing undesirable behaviors. Thus, efforts to promote civility could be effective; this might include niceties such as engaged listening during meetings or polite interactions in the courtroom.<sup>8</sup> As a more drastic measure, judges could punish attorneys and litigants for uncivil behavior, such as by being quicker to hold them in contempt. In addition, because women are more often the targets of incivility than men, implementing programs or interventions that combat gender bias could also reduce instances of incivility in the courthouse.<sup>33</sup>

With respect to stress, a broad set of stress-reduction skills is important for judges in general. Past

literature suggests many remedies, such as learning about self-care, taking time off (e.g., retreats, sabbaticals), sharing experiences with other judges (e.g., in mentoring or peer-support programs), and receiving professional mental health services<sup>2,3,11</sup> Many of these past publications have suggested tailoring stress interventions to specific types of judges, based on factors like gender, time on the bench, and so on. Even though the current study found few differences based on gender, time on the bench, and full-time versus part-time status, it is important to tailor the intervention to the person and situation; a universal intervention might not be as useful. For instance, our study of administrative judges found lower levels of stress than other studies which used judicial branch judges (as discussed above); thus, interventions could be based on judge type. In addition, we found that time on the bench increased the link between stress and mental health outcomes; this indicates that programs could be tailored differently for new judges and experienced judges.

The third major implication is for theories of both incivility and judicial stress. We expanded what is known about incivility in the courtroom; specifically, that judges' perceptions of incivility are directly related to their reported stress levels and job satisfaction. This is in line with previous research examining attorneys' perceptions and outcomes related to incivility<sup>31,32</sup> and suggests that incivility continues to be a source of stress in the legal system. Unlike previous research and theoretical propositions about incivility in the courtroom, however, we found no gender differences on any assessment involving incivility<sup>30-32</sup> and no significant relationship between incivility and job performance.<sup>8</sup> A point of interest is that, even with low levels of incivility, the relationship between incivility and stress or incivility and job satisfaction persisted. This suggests that incivility should always be addressed even when it is not a major problem. With respect to research related to judges more broadly, this study confirmed many previously untested aspects of judicial stress. The MJS<sup>7</sup> does not list incivility specifically, but we would now suggest that MJS should incorporate incivility, given its numerous relationships to stress and outcomes for job and health.

### **Limitations and Future Directions**

This study is not without important limitations. First, there are limitations related to our measurements.

Although we created 23 items to measure multiple aspects of incivility, because of participant responses and missing data, only 12 were used in the final analyses. Participants might have been unwilling to answer some questions about their colleagues, and this could affect interpretation of the data. As this is a new scale, it is unclear if results would replicate to another population.

The incivility assessment scale created for this study is unable to differentiate between directly experienced incivility and indirectly observed or witnessed incivility, a differentiation that might provide new insight. It is possible that being the target of incivility would affect stress (and other outcomes) differently than witnessing incivility (although previous research indicates that both direct and indirect incivility are damaging).<sup>27</sup> Also, as with many other behavioral self-report scales,<sup>8</sup> the incivility scale is unable to differentiate whether participants experienced a few sources of incivility repeatedly or myriad sources of incivility sporadically. And, because some of the participants might be co-workers and have similar workplace experiences, there exists the possibility that the rate of incivility in the workplace is overinflated (e.g., multiple participants recall the same uncivil interactions which increases the reported level of workplace incivility). Although that seems unlikely in this group of judges (who travel independently to various sites to resolve disputes), we cannot rule out this limitation. Future studies can be designed to directly test these possibilities.

Another limitation concerns the sample, which was a convenience sample of administrative judges, who might differ from other types of judges, as mentioned above. A modest proportion of the sample declined to participate, which might have resulted in response bias. Future research should compare samples of different types of judges and determine if there is a certain subset of these samples who decline to participate in research.

Another limitation is that all judicial stress studies struggle with the best method for measuring stress. Stress can be measured as depression or anxiety. It can be measured as physical symptoms (e.g., unable to sleep or eat). Or, it can be measured generically, allowing the participant to define stress in a way that is personally relevant. This and many other studies<sup>10,12</sup> choose the last method. To test the MJS, which predicts that stress will negatively affect mental health, stress cannot itself be a measure of mental

health. Future studies should use other measures of stress (e.g., physical symptoms) to replicate these findings.

### Conclusion

This study expanded on previous studies of judicial stress<sup>5,10,12</sup> and the MJS.<sup>7</sup> Although judges reported that incivility was only a moderate concern, there was evidence that it affected judges in a variety of ways. Specifically, incivility was significantly related to stress, job satisfaction, and compassion fatigue, with mental and physical health measures approaching significance. Interventions could help minimize incivility in judges' work environments by educating judges about how to recognize and address incivility. Doing so could help protect judges' well-being and, in turn, protect the integrity of the legal system.

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