

IS THE CANADIAN LEGAL PROFESSION AT RISK?
AN ANALYSIS OF LAWYER VICTIMIZATION
ACROSS CANADA

by

Karen Nancy Brown
B.G.S., British Columbia Open University, 2003
M.A., Simon Fraser University, 2005

THESIS SUBMITTED IN PARTIAL FULFILLMENT OF
THE REQUIREMENTS FOR THE DEGREE OF
DOCTOR OF PHILOSOPHY

In the
School of Criminology
Faculty of Arts and Social Sciences

© Karen Nancy Brown 2011
SIMON FRASER UNIVERSITY
Summer 2011

All rights reserved. However, in accordance with the *Copyright Act of Canada*, this work may be reproduced, without authorization, under the conditions for *Fair Dealing*. Therefore, limited reproduction of this work for the purposes of private study, research, criticism, review and news reporting is likely to be in accordance with the law, particularly if cited appropriately.

APPROVAL

Name: Karen Nancy Brown
Degree: Doctor of Philosophy
Title of Thesis: Is the Canadian Legal Profession at Risk?
An Analysis of Lawyer Victimization across
Canada

Chair: Brian Burtch, Ph.D.
Professor, Simon Fraser University

Examining Committee:

David MacAlister, LL.M.
Senior Supervisor
Associate Professor, School of Criminology

Margaret Jackson, Ph.D.
Supervisor
Professor, School of Criminology

Bryan Kinney, Ph.D.
Supervisor
Assistant Professor, School of Criminology

Deborah Connolly, Ph.D.
Internal Examiner
Associate Professor, Department of Psychology

Jeffrey Ian Ross, Ph.D.
External Examiner
Associate Professor, School of Criminal Justice
University of Baltimore

Date Defended/Approved: April 21, 2011



SIMON FRASER UNIVERSITY
LIBRARY

Declaration of Partial Copyright Licence

The author, whose copyright is declared on the title page of this work, has granted to Simon Fraser University the right to lend this thesis, project or extended essay to users of the Simon Fraser University Library, and to make partial or single copies only for such users or in response to a request from the library of any other university, or other educational institution, on its own behalf or for one of its users.

The author has further granted permission to Simon Fraser University to keep or make a digital copy for use in its circulating collection (currently available to the public at the "Institutional Repository" link of the SFU Library website <www.lib.sfu.ca> at: <<http://ir.lib.sfu.ca/handle/1892/112>>) and, without changing the content, to translate the thesis/project or extended essays, if technically possible, to any medium or format for the purpose of preservation of the digital work.

The author has further agreed that permission for multiple copying of this work for scholarly purposes may be granted by either the author or the Dean of Graduate Studies.

It is understood that copying or publication of this work for financial gain shall not be allowed without the author's written permission.

Permission for public performance, or limited permission for private scholarly use, of any multimedia materials forming part of this work, may have been granted by the author. This information may be found on the separately catalogued multimedia material and in the signed Partial Copyright Licence.

While licensing SFU to permit the above uses, the author retains copyright in the thesis, project or extended essays, including the right to change the work for subsequent purposes, including editing and publishing the work in whole or in part, and licensing other parties, as the author may desire.

The original Partial Copyright Licence attesting to these terms, and signed by this author, may be found in the original bound copy of this work, retained in the Simon Fraser University Archive.

Simon Fraser University Library
Burnaby, BC, Canada

STATEMENT OF ETHICS APPROVAL

The author, whose name appears on the title page of this work, has obtained, for the research described in this work, either:

(a) Human research ethics approval from the Simon Fraser University Office of Research Ethics,

or

(b) Advance approval of the animal care protocol from the University Animal Care Committee of Simon Fraser University;

or has conducted the research

(c) as a co-investigator, collaborator or research assistant in a research project approved in advance,

or

(d) as a member of a course approved in advance for minimal risk human research, by the Office of Research Ethics.

A copy of the approval letter has been filed at the Theses Office of the University Library at the time of submission of this thesis or project.

The original application for approval and letter of approval are filed with the relevant offices. Inquiries may be directed to those authorities.

Simon Fraser University Library
Simon Fraser University
Burnaby, BC, Canada

ABSTRACT

This dissertation discusses lawyer victimization across Canadian provinces and territories, a research project that employed both quantitative and qualitative methods, utilizing an exploratory survey approach to canvass 15,746 practicing lawyers and undertaking 61 lawyer interviews. Findings from the survey revealed that threats ranged from inappropriate communications and approaches to explicit threats to harm including physical assaults and death threats. Robust findings included gender differences with regard to reactions to aggression, and that occupation, not gender, is relevant to receipt of aggression. Theoretical discussions were triangulated to also include the author's 2006 public opinion survey of lawyers, canvassing the general public ($n=182$) and university students in a large Western Canadian university ($n=480$). In the lawyer interviews, numerous themes were explored – theoretical assumptions; gender issues in practicing law, self-represented individuals in the legal system; the public's access to legal knowledge online; and unethical billing practices. As well, possible solutions were proffered: promoting legal literacy in elementary/secondary schools; transitioning law school academics to legal practitioners; enhancing law firm mentorship programs, and bringing awareness of lawyer victimization to the provincial bar societies and the Canadian Bar Association. Unless coordinated efforts are undertaken to address aggression against lawyers, legal practitioners, especially women, will continue to suffer victimization and severe psychological repercussions.

Keywords: Lawyers; legal profession; law; victimization; workplace violence; workplace victimization; work-related risk; abuse; threats; aggression; victims; high-risk occupations; public opinion poll; gender issues; frustration-aggression hypothesis; victim precipitation theory

ACKNOWLEDGEMENTS

I want to thank my partner and best friend, Jack, for his patience, unwavering support, encouragement and sense of humour (when mine at times was lost) as I completed this journey. I love you! As well, as a devoted dog lover, I want to hug and frolic with my beautiful dogs, Sammi and Farley, as their companionship while I worked in my home office kept me sane in times of frustration and overloads!

The personal encouragement I received at home from my mother and husband was equally complemented by the support I received in the academic arena. David MacAlister has been with me from the beginning of my graduate studies, offering his knowledge, wisdom and guidance as my senior advisor. I was fortunate to learn how to be patient under his tutelage. His generosity as a leader has served as a model for other students and colleagues. Thank you for showing me how to be flexible and supervising me through the several different phases of my academic career. David, I wish you all the best in your future endeavours!

I do not think words on this page do justice to Dr. Margaret Jackson's mentorship and friendship over the last seven years of my graduate work. It is something I will treasure forever. Our continuing friendship and collaborations continue to grow, and I look forward to many more years of laughter, hiking in Hawaii and of course, publications. I remember starting my first week of graduate school in the Master's program, and Bryan Kinney giving me advice about workloads as I was trying to juggle a full time business career with graduate school. One had to give and thankfully it was the business job!! I fully embraced graduate school, so thank you Bryan for your support and advice over the years. And finally, I would like to thank my external examiner, Dr. Jeffrey Ian Ross, and my internal examiner, Dr. Deborah Connolly, for their kind and gracious approaches during my doctoral defence.

I also want to thank the Chair of my defence, Dr. Brian Burtch, for his humour, compassion and support during my time at Simon Fraser University. Bryan, it has been a privilege to know you, and I look forward to a continuing friendship.

Wanda Cassidy, you are my mentor, friend and colleague, and the academic and occupational successes that I have achieved in the last few years could not have been accomplished without your caring and compassion. If someone asked me to name one of the biggest impacts of graduate school, I would respond unequivocally that it was meeting you and Margaret Jackson, and as Humphrey Bogart so famously exited, "I think this is the beginning of a beautiful friendship". It is an honour to count both of you as my trusted friends.

I would also like to thank Vincent Wong for his expertise in designing an emailer that made my life so much easier when electronically canvassing lawyers. As well, I would like to thank Roxanne Jantzi and the graduate support staff who have always been so helpful.

I would also like to thank all my other friends who have been so supportive over the last few years, and I hope you will forgive me all those times when I could not make dinner engagements! I value your friendship and forgiveness!

TABLE OF CONTENTS

Approval	ii
Abstract	iii
Acknowledgements	iv
Table of Contents	vi
List of Figures	viii
List of Tables	ix
Introduction	1
Structure of the Dissertation	6
Chapter 1. Victimization/Workplace Violence	9
Introduction	9
Victims and Victimization	9
Introduction: Work-related/Workplace Violence	12
Defining Work-related/Workplace Violence	13
Higher-risk Occupations	14
Chapter 2. Theoretical Perspectives	18
Introduction	18
Psychological/Biological/Social Dynamics	22
Organizational and Practice Dynamics of the Legal Profession	37
Public Opinion Poll	59
Methodology	59
Results	61
Comments and Suggestions	69
Chapter 3. Methods and Procedures	77
Introduction	77
Quantitative Approach	80
Sample Selection	80
The Instruments	81
Procedures	87
Qualitative Approach	88
Selection of Lawyers	88
Description of Interviewees	89
Procedure	90
Chapter 4. Survey Results: Analysis and Discussion of the Survey	93
Univariate Analysis	93
Demographics	93

Received Non-physical Aggression within the Past Year	98
Received Physical Aggression within the Past Year	100
Received Non-physical Aggression within the Last Five Years (not including the past year)	105
Non-Physical Aggression in the Past Year/Last Five Years	109
Protective Measures	113
Locations	119
Description of Aggressor	120
Aggression Increasing, Decreasing or Staying the Same?	122
Aggression against Lawyers	122
Chapter 5. The Interviews	137
Introduction	137
Theory	139
Self-Represented Litigants	157
Internet	160
Gender Issues in Practicing Law	164
Possible Solutions	172
Bringing Awareness of Aggression against Lawyers	172
The “Metamorphosis Process”: How to Transition from Law Student to Legal Practitioner?	175
Legal Literacy in Elementary/Secondary Schools	184
Chapter 6. Limitations	190
Chapter 7. Conclusion	195
Causes: Theories and Actual Practices	195
Public Opinion	198
Policy Implications	198
Gender Issues	199
Differences between the 2005 B.C. Study and the Current Study	199
Mentorship/Legal Literacy	200
Building Awareness	202
Access to Justice	202
Further Research	203
Reference List.....	205
Appendices	221
Appendix 1. Public Opinion Poll (web survey)	222
Appendix 2. Violence and Threats against Lawyers (web survey)	227
Appendix 3. Menaces et Violence Envers les Avocats (web survey)	235
Appendix 4. English Introductory Letter	244
Appendix 5. French Introductory Letter	245
Appendix 6. Lawyers’ Consent Form	246

LIST OF FIGURES

Figure 4.1: Respondents' Place of Business ($n=888$) 96

Figure 4.2: Status ($n=727$) 97

Figure 4.3: Non-Physical Aggression in the Past Year/Last Five Years 110

Figure 4.4: Non-Physical Aggression (Explicit) in the Past Year/Last Five Years 111

Figure 4.5: Non-Physical Aggression (Stalking, Confrontations)
in the Past Year/Last Five Years 112

LIST OF TABLES

Table 2.1: Age $n=182$	61
Table 2.2: Occupation $n=182$	62
Table 2.3: Race $n=480$	63
Table 2.4: Trust/Confidence $n=182$ (First Study)	64
Table 2.5: Trust/Confidence $n=479$ (Second Study)	64
Table 2.6: Positive Aspect $n=182$ (first study)	66
Table 2.7: Positive Aspect $n=480$ (second study)	67
Table 2.8: Negative Aspect $n=182$ (first study)	67
Table 2.9: Negative Aspect $n=480$ (second study)	68
Table 3.1: Law Society of British Columbia	77
Table 3.2: Law Society of Alberta	78
Table 3.3: Law Society of Saskatchewan	78
Table 3.4: Law Society of Manitoba	78
Table 3.5: Law Society of Upper Canada	78
Table 3.6: Barreau du Québec	78
Table 3.7: Law Society of New Brunswick	78
Table 3.8: Nova Scotia Barristers' Society	79
Table 3.9: Law Society of Prince Edward Island	79
Table 3.10: Law Society of Newfoundland and Labrador	79
Table 3.11: Law Society of Yukon	79
Table 3.12: Law Society of the Northwest Territories	80
Table 3.13: Law Society of Nunavut	80
Table 3.14: Descriptions and Codes for Lawyers	91
Table 4.1: Respondents' Ages (Age $n=891$)	93
Table 4.2: Status (Province/Territory do you primarily practice $n=891$)	94
Table 4.3: Receive/Did not Receive Aggression	98
Table 4.4: Received non-physical aggression in past year ($n=897$)	99
Table 4.5: Received non-physical aggression (explicit) in past year ($n=897$)	99
Table 4.6: Received non-physical aggression (stalking, confrontations) in past year ($n=897$)	100
Table 4.7: Received death threats in past year ($n=897$)	100
Table 4.8: Received non-physical aggression in past five years ($n=897$)	105
Table 4.9: Received non-physical aggression (explicit) in past five years ($n=897$)	106
Table 4.10: Received non-physical aggression (stalking, confrontations) in past five years ($n=897$)	106
Table 4.11: Received death threats in past five years ($n=897$)	106
Table 4.12: Security Measures	113
Table 4.13: Location of Aggression	119
Table 4.14: Areas of Practice/Location of Aggression	120

INTRODUCTION

Sorensen (2003) interviewed a number of Canadian lawyers in 2003 and confirmed that lawyers across the country are receiving violence and abuse. She explored the treatment that many lawyers receive in their practice, revealing a controversial situation that could possibly hinder access to justice if lawyers refrain from practicing in specific areas (e.g., family law), or female lawyers decide to leave their practices and work in other capacities because of work-related abuse. In the United States, according to the Bureau of Labor Statistics, violence in the workplace has become an urgent safety concern (Commercial Law Bulletin, 1996). Although a number of American studies have examined violence against judicial officials and courtroom personnel (see Calhoun, 1998, 2001; Greacen & Klein, 2001; Hansen, 1998; Harris, Kirschner, Rozek & Weiner, 2001; Jenkins, 2001; Kelson, 2001; Weiner, Harris, Calhoun, Flango, Hardenbergh, Kirschner, O'Reilly, Sobolevitch & Vossekuil, 2000), no substantial research of this kind has been conducted in Canada. Over the past thirty years, however, Canadian lawyers have been killed in the course of their duties, for example, Douglas Traill in 1982, Oscar Fonseca in 1982, Frank Shoofey in 1985, Sidney Leithman in 1991, Paul Beaudry in 1991, and Lynn Gilbank in 1998¹ (Brown,

¹ On March 13, 1982, Mr. Traill, a family law practitioner, was shot and killed as he sat in his Nanaimo, B.C. office.

On March 18, 1982, Oscar Fonseca was gunned down and killed in the Osgoode Hall courtroom in Ontario.

On October 15, 1985, criminal defence lawyer Frank Shoofey, aged 44, was killed after being shot three times in the head and twice in the chest outside his office building.

On May 13, 1991, Sidney Leithman, aged 54, a prominent criminal defence lawyer in Montreal, was killed while he sat at the wheel of his car, just minutes from his home.

On September 11, 1991, Paul Beaudry, aged 34, a criminal defence lawyer, was gunned down in his Montreal office by two assailants who walked into the office and opened fire.

On November 16, 1998, Lynn Gilbank, aged 52, a criminal defence counsel, and her husband, Fred, a computer programmer with IBM, were shot and killed in their Hamilton, Ontario home around 5:00 a.m. The killer shot Mrs. Gilbank several times.

2005). One British Columbia lawyer was informed that an accused whom she had successfully prosecuted in court had been subsequently accused of attempting to hire a “hit man” to kill her (the case was later dismissed) (Brown, 2005).

Accordingly, to examine this phenomenon in more depth, this researcher conducted a study in 2005 of lawyers practicing in the province of British Columbia, Canada (hereinafter referred to as the “2005 B.C. Study”) to explore the possibility that lawyers are receiving aggression in the course of their legal duties. Specifically, “violence, threats and abuse” in both the 2005 B.C. Study and the national study were modelled on descriptions used in the study conducted by the Administrative Office of the Pennsylvania Courts in the United States in 1999 (Harris, Kirschner, Rozek and Weiner, 2001). The types of violence, threats and abuse analysed were as inclusive as possible in the surveys, and an attempt was made to capture all degrees of violence and aggression likely to have been experienced by lawyers.

In the 2005 B.C. study, out of a survey sample of 1,152 respondents, 683 lawyers reported receiving some type of work-related threats since they began practicing law. These threats ranged from inappropriate communications and approaches to explicit threats to harm including physical assaults and death threats (see Brown and MacAlister, 2006a). Lawyers practicing in family and civil litigation areas, and criminal defence and criminal prosecutorial sectors were most likely to receive threats and abuse. For example, 72.6 percent of criminal defence lawyers, 81.7 percent of federal/provincial prosecutors, and 86.4 percent of family/divorce lawyers reported receiving threats (see Brown and MacAlister, 2006a). Threats were ubiquitous, however, for out of the 46 areas of legal practice canvassed in the study, lawyers from every area, except a single response from lawyers in mining and IP/IT (Intellectual Property/Information Technology), reported receiving some type of abuse (see Brown and MacAlister, 2006a). Further, respondents relayed some of their experiences with regard to violence, threats and abuse:

- “I have received a death threat, a few explicit threatening communications and had inappropriate approaches directed at me”
- “Threatened with physical violence”
- “Inappropriate phone calls and communications in the form of stalking”

- “Finding a client in the back lane behind my home”
- “Telephone death threat”
- “Client told me that my life and her life were threatened and we could be murdered”
- “Death threat, inappropriate approach (different cases)”
- “In a murder trial, I had a body guard and 24 hour protection for months due to the nature of the accused people and their direct threats to witnesses”
- “Have been sued by an accused – took 4 years to resolve; have been yelled at, followed by angry often unstable accused people, witnesses, have received threatening letters from unstable people”
- “Threatening (explicit), inappropriate (“watch your back”), followed to home then vandalism to car at home”
- “Death threats, inappropriate communications (regularly)”
- “Excrement in an envelope twice mailed to my office, and death threats”
- “Threats and physical assault on two occasions”
- “Very hostile and aggressive communications”
- “Face to face confrontations and veiled threats by telephone”
- “Had my car keyed by an accused”
- “Harassment by one of my client’s ex-husbands. I eventually obtained a civil restraining order against him from contacting our firm or me”
- “Was attacked in the courtroom with a 24-inch scythe causing severe injuries, including a skull fracture, deep lacerations to the cheek and jaw, and cosmetic deformity of the head and neck”.

(Brown, 2005: 3; Brown and MacAlister, 2006a: 557)

The point here is that threatening behaviours, far from being a rarity in legal practice, may be far more common than originally thought, even though the provincial and federal governments have adopted protective measures for prosecutors. Notwithstanding government officials at various levels have recognized their commitment to protect their employees, discussion and even recognition of this problem is still rather enigmatic amongst lawyers of the private bar. Although some members, certainly those who have been victimized,

recognize this is a problem amongst lawyers, others of the Bar seemingly ignore or suggest that such incidents are trivial or non-existent, warranting little response or action. The duality of philosophies pertaining to this issue is somewhat surprising, given the cohesive nature of this profession. Such dichotomous thinking may adversely impact victims further, causing some of them to leave the practice of law or switch positions.

Larger studies conducted in the United States have focused on judges, bailiffs, defence lawyers, prosecutors, court clerks, witnesses, probation officers and social workers, to name a few (Hardenbergh & Weiner, 2001). The primary intent of these studies was to scrutinize courthouse security effectiveness, with suggestions proffered that violence in the judicial workplace could jeopardize the open access to the court system, for example, by decreasing liberty due to fear, threats, violence and intimidation (Berkman, 1994; Geiger, 2001; Warren, 2001; Wax, 1992). The U.S. Marshals Service report was the most comprehensive survey conducted on courthouse security, commissioned after the brutal slaying of a Superior Court judge (Calhoun, 1998). The investigation further uncovered 3,096 inappropriate assaults and communications that had occurred between 1980 and 1993. Some of the assaults targeted judges and court personnel, but others focussed outside the courthouse realm on family members and personal property. Subsequent to report findings, the U.S. Marshalls Service enhanced security in each federal United States courthouse. Further, the states of Pennsylvania and New Mexico recognized the need to conduct judicial surveys to quantify the various types of threats and violence against judges (Greacen & Klein, 2001; Harris, Kirschner, Rozek & Weiner, 2001). Despite extensive American studies, there has been no comparative Canadian research on this topic, leading to a dearth of Canadian literature in this regard. Therefore, the importance of continuing with a national study hinges on the potential of violence, threats, abuse and aggression (hereinafter collectively hereafter referred to as “aggression” unless otherwise described by respondents or other researchers), impacting, as the American counterparts have shown, open access to the court system and justice for all.

Certainly a pivotal revelation occurred in the Province of Ontario when the Ontario Bar Association drafted a Resolution in 2003, prefacing such declaration with the following: “whereas access to justice in a democratic society requires that lawyers be able to carry out their duties in representing individuals

and groups without fear of harm...” (Canadian Bar Association, 2003). If lawyers from other provinces are being threatened, as evidenced by previous episodes of aggression or murder, then a national study, expanding on the 2005 B.C. Study, is vital to ascertain the extent, if any, and nature of such behaviours. Given that the profession itself is being targeted, notwithstanding some areas of practice may be more prone to aggression than others, it is imperative to determine if these types of aggressive acts are continuing in other provinces and territories as well. Formerly, crime statistics in Canada increased from the East to the West, but in recent years this trend is changing, with those Atlantic provinces such as Newfoundland, Prince Edward Island, Nova Scotia and New Brunswick now surpassing Ontario and Quebec (Siegel & McCormick, 2010). Questions about lawyers’ safety in these other Canadian provinces and territories must be determined, requiring an inquiry into whether lawyers practicing in these other Canadian locations are at risk. Practicing female lawyers who have received aggression, in particular, may be greatly impacted in their decisions to continue in this profession. If lawyer disparagement is prevalent throughout Canada, then it is possible that little differences in aggression will occur across provinces and territories. If the general view the public holds about lawyers is equitable across the land, no matter where a lawyer practices, she or he will be correspondingly at risk for victimization, notwithstanding the general crime trends.

Since the 2005 B.C. Study was a preliminary exploratory project to verify if lawyers are receiving aggression over a lifetime of practicing law and such findings concluded this to be the case, then the national research project needed expansion to encompass additional variables and a unique timeline. For example, the survey instrument was expanded to address aggression over two timeframes – in the past year, and in the last five years – to establish first, the extent and amount of aggression and second, to uncover whether aggression is increasing over this span of time. As well, the findings from the 2005 B.C. Study confirmed that lawyers are receiving aggression, so a natural extension in the national study is to determine general profiles of the perpetrators, for example, whether they have a history of violence, substance abuse issues or mental health concerns, among others. The answers to these questions will go a long way in framing theoretical assumptions about this unique form of aggression.

STRUCTURE OF THE DISSERTATION

Chapter 1 analyzes workplace aggression and contextualizes lawyer victimization within the risky job paradigm. Although lawyer victimization has not been extensively studied in Canada, characteristics of lawyering are compared with research studies of high-risk occupations to determine specific conditions that may contribute to workplace maltreatment. As a central premise to this study, workplace violence is also defined to provide context to this research. However, one qualification that must be made at the outset is that workplace victimization for lawyers must be contained within their duties as lawyers discharging their legal obligations. Numerous studies confirm that workers in the healthcare industry, especially those who work in psychiatric facilities or long term care units suffer greater victimization such as sexual or racial harassment, bullying, physical and verbal abuse, and countless other aggressive actions. Nonetheless, job characteristics that have potential for increased aggression include dealing with public and overseeing resolutions that can affect one's life or livelihood, affecting decisions that influence other people's lives and so on. It is noteworthy that these particular job characteristics apply to the legal profession. Dealing with the public places workers at risk, and in the context of aggression against lawyers, lawyers work with citizens in their line of duty, made more vulnerable if a lawyer works alone, in isolated areas or in vulnerable areas such as courthouses.

Chapter 2 delves into analyses of theoretical perspectives from a triangulated perspective – firstly, psychological, biological and sociological approaches that may explain why lawyers are receiving aggression; secondly, the victim precipitation theories that may explain why lawyers may bring on their own victimization, and thirdly, the public's opinion on reasons why lawyers are disrespected in society. For example, American researchers have determined that there are no specific hypotheses that can fully explain aggression against lawyers. Therefore, numerous theories are proffered here from frustration/aggression to social cues and biological traits. Although it is difficult to judge which individuals may aggress, it is safe to make assumptions that those with particular traits may have a greater inclination to do so. The second side of the triangle that requires exploration is the organizational and practice dynamics of the legal profession. Are lawyers bringing on their own victimization due to

myriad factors? This chapter explores the changes in the legal profession, most notably from the former glory of a profession to the more practical adoption of a business template. Concurrent with these changes is the heightened aspirations of hourly billings and perhaps the degradation of lawyer/client rapport and lawyer professionalism. The new mantra of balanced commercialism takes precedence in many law firms today, with the end result being an apparent decline in legal services, especially *pro bono* work. The contentions around self-regulation are also investigated, exploring the notion that this unique position affords lawyers the luxury of choosing their battles and outcomes. One particular infraction may be the issue of irregular or exaggerated billings, stemming from the introduction of hourly billing decades ago. These, and other factors discussed in this chapter, may contribute to public derision and contempt for lawyers, resulting in some cases of aggression.

Lastly, members of the public were canvassed by survey to complete the triangulation of theoretical propositions. The public opinion poll stemmed from comments made in the 2005 B.C. Study that the public is to blame for lawyer victimization. It is vital to this study that citizens in this country be canvassed to import their opinions and recommendations for lawyers, and to offer reasons why lawyers are poorly regarded in society. Notwithstanding the unique and imperative role lawyers play in Canada's justice system, incorporating public voice may bring reasons to this study as to why lawyers' reputations are declining. Quantitative analyses (univariate and bivariate) are conducted here, along with analyses of the open-ended questions.

Chapter 3 introduces and explains in detail the methods and procedures used in this study, namely a quantitative method that employed a survey instrument, and a qualitative process that undertook interviews. With regard to the quantitative portion, between May 2008 and July 2009, 15,746 practicing lawyers in every Canadian province and territory were canvassed by email. A total of 897 viable responses were subsequently analyzed. Further, 61 lawyers across Canada were interviewed between June 2008 and September 2009.

Chapter 4 discusses the results of the quantitative study. Data analysis was conducted using the Statistical Package for Social Sciences (SPSS). Univariate analyses examined demographics, such as gender, aggression, age, location of practice, years practicing law, places of legal practice and their roles with those

practices, and the extent and degree of aggression (if any) in two timeframes – (1) past year, and (2) in the last five years (excluding the past year). Along with these variables were analyses of reactions/injuries to such aggression (if received), and investigation of comments made in the open-ended sections. Respondents were also asked to elaborate on their specific injuries/reactions, and such details were recorded in this chapter. Rounding out the univariate analyses was dissection of protective measures adopted by respondents, locations of aggression, descriptions of aggressors (if known), and a closed-ended opinion question asking respondents if they believe aggression against lawyers is increasing, decreasing or staying the same

Thenceforth, Chapter 5 analyzes the qualitative findings, namely interviews with 61 lawyers from across Canada. In these interviews, numerous themes were explored – theoretical assumptions; self-represented individuals in the legal system, legal knowledge learned online, gender issues in practicing law, and unethical billing practices. In addition, ideas of possible solutions were evoked – namely the possibilities of including more legal education in elementary and secondary schools to promote legal literacy; education in law schools or enhanced mentoring programs in law firms on how to become a legal practitioner from a law student, and the importance of bringing awareness to the provincial bar societies and the Canadian Bar Association of aggression against their members. The open-ended semi-scripted questions in the interview processes were formulaic in practice only, and the interviewer digressed from the script when warranted to capture important information relayed by the interviewees.

Chapter six addresses the limitations to this study, including the low survey response rate, generalizability, definitions of violence, ambiguity of the phrases “justice system” and “legal system”, interpretation of mental illness, lack of Canadian literature on this topic, telescoping, and time delays.

Lastly, Chapter 7 concludes with summaries of key findings and possible avenues for future research.

CHAPTER 1.

VICTIMIZATION/WORKPLACE VIOLENCE

INTRODUCTION

Although some research does exist on judicial victimization, no significant published statistics have been compiled in Canada investigating violent acts against lawyers. Further complicating the void created by the lack of Canadian research data is the fact that a majority of the research and investigations have only focussed on judges and courtroom staff within the United States (see Brown and MacAlister, 2006a&b).

VICTIMS AND VICTIMIZATION

For many years, victims were not acknowledged in criminological studies. It has only been since the 1960s that criminologists determined victims can play a vital role in the crime process. Victims can indirectly influence a criminal event, for example, by adopting a lifestyle that attracts illegal actions or places them in jeopardy for criminal behaviours by working or residing in higher-crime areas (Siegel and McCormick, 2010). Pursuant to Lifestyle Theories, some victims may adopt lifestyles that increase their exposure to the likelihood of exposure to crime. In essence, an individual's activities may precipitate criminal aggression (Cohen and Felson, 1979). Interestingly, the 2004 General Social Survey in Canada found that approximately 28 percent of Canadians had been victimized at least once in the prior year (Siegel and McCormick, 2010). Of those, "27 percent were violent crimes (sexual/physical assault, robbery); 42 percent were household crimes and another 31 percent were theft of personal property" (Siegel and McCormick, 2010: 101). Chronic victimization can also occur, and

according to Finkelhor and Asdigian (1996), such perpetuation can occur because of three characteristics: vulnerability, gratifiability and antagonism of the target. If victims display weakness or vulnerability, or possess something that the perpetrator wants or offends in some manner, victims may be repeatedly victimized. Social situations such as living in high crime areas also increase one's chances of re-victimization as does one's personality – being quiet and self-conscious or introverted – may heighten chances for bullying. Being repeatedly bullied either in school or in the workplace can increase the victim's vulnerability to future victimization (Siegel and McCormick, 2010). In turn, pursuant to Rational Choice Theory, many individuals are re-victimized because perpetrators know the victims, their habits and routines, thus leading to further atrocities (Farrell, Phillips and Pease, 1995).

Do some victims actually cause their own victimization? According to the Victim Precipitation Theory, some victims may actively provoke offenders into committing a criminal act or they possess some characteristic that unknowingly offends the perpetrator. This theory does not blame the victim for the criminal act but attempts to determine why some individuals are victimized while others are not (Siegel and McCormick, 2010). Von Hentig (1948) was one of the first criminologists to study how victims can fashion an offender, and how the victim may end up helping the offender in the offence by favouring circumstances. Schafer (1968) also looked at victim precipitation in the victim's responsibility to encourage some type of criminal behaviour.

Being a victim of crime can have serious repercussions for both men and women. Women may suffer post-traumatic stress and anxiety, possibly leading to suicidal thoughts (Bryant and Range, 1995), whereas men, although also prone to psychological trauma, stress and anxiety, may externalize their anger towards the perpetrator. Women, on the other hand, are more inclined to internalize such feelings (Stanko and Hobdell, 1993). The effects of victimization can be long-lasting, with women and elderly persons suffering distress and trauma far longer than men and young people. Overall, however, almost every victim will suffer some degree of emotional response (Siegel and McCormick, 2010). A number of other manifestations will also occur post-victimization – victims will often perceive that crime rates are increasing, feel unsafe in their home and community surroundings, and experience diminished quality of life (Michalos and Zumbo,

2000). The aftershock of victimization can lead to an overall life change where the victims become more suspicious in their daily lives (Davis, Taylor and Lurigio, 1996). Perceptions of risk for further victimization may change as well. Victims may feel more vulnerable, but as Alvi, Schwartz, DeKeseredy and Maume (2001) reported, women's fear, in particular, stems from neighbourhood disorder and dissatisfaction, which can impact their feelings of safety and security. All things considered, however, the Canadian public and their fear of crime is decreasing (Besserer and Trainor, 1999).

A number of characteristics demarcate victims from those individuals who have not been victimized. Important factors include age, gender, social status and the dynamics between the victim and the offender. The younger a person is, the higher the chances for being a victim of crime. In 2004, for instance, the acute victimization rates for individuals aged between 15 and 24 was 226 per 1,000, almost twice as high than those Canadians aged 35 to 44 (115) and almost 20 times as high for those seniors aged 65 and over (12) (Gannon and Mihorean, 2005). With regard to gender, Siegel and McCormick (2010) report that, "the overall rate of victimization for men and women has been quite similar over several cycles of the GSS, despite variations for individual crimes" (p. 107). As well, being poor increases the chances of victimization but studies have shown that wealthy citizens are also prone to criminal victimization as they are more likely to go out at night, drive expensive cars, wear extravagant accoutrement and have a more opulent lifestyle (Siegel and McCormick, 2010).

Lastly, an important factor is the affiliation between victim and offender, considering that many criminal acts are committed by people who are acquainted or familiar with the victim. "Friends, acquaintances or someone else known to the victim were the accused in over half of all violence" (Siegel and McCormick, 2010: 109).

The victimization of lawyers in this study is confined to their professional duties. Victimization in the context of this study is exclusively confined to a lawyer discharging his or her legal obligations. As set out in the *Professional Conduct Handbook* (2009), these duties include acting as a "minister of justice, officer of the courts, client's advocates, and a member of an ancient, honourable and learned profession" (Ch. 1, para. 2).

INTRODUCTION: WORK-RELATED/WORKPLACE VIOLENCE

Certain work groups have considerably higher occurrence risks for occupational violence or threats. As Wilkinson (2001) points out, these increased risks can be based on unique fundamental issues relating to the nature of the business, such as dealing with the public or working with individuals with mental health issues. Also, situational dynamics such as locating businesses near or within higher crime neighbourhoods, retaining longer business hours that extend into the early or late evening, and/or keeping cash on the premises, can create potentially perilous work conditions. In spite of this, by its very nature, the practice of law has not usually been identified as a professional endeavour prone to work-related violence or threats. Although lawyers have been murdered, assaulted, and threatened, the practice of law has generally been considered an ethical, irreproachable and honourable profession, far removed from the daily trappings of high-risk workplace hazards inherent in many other occupations (Brown and MacAlister, 2006a, 2006b). But times have changed. According to the Canadian Bar Association at their annual general meeting in Vancouver, Canada in August, 2005, safety is now one of the most important issues facing legal practitioners in this century (Schmitz, 2005). The importance of lawyer safety may stem from The Ontario Bar Association December 2003 Resolution which states, in part:

The Ontario Bar Association (should) develop in conjunction with all levels of government and policing services a risk assessment protocol, and other measures that may be deemed necessary, to protect all lawyers, their families, associates, and staff from harm or threat of harm. (Ontario Bar Association, 2003).

The 2003 Resolution reflected anxieties raised by the Association after the public admission by a senior Toronto lawyer that he had quit a high profile case because he received grave personal threats (Ontario Bar Association, 2003). The December 2003 Resolution requested all levels of government and policing services to work with the Ontario Bar Association and its members in developing risk assessment protocols, and other measures to protect lawyers, their families, associates and staff from harm or threat of harm. On the heels of such concerns, the Ontario Branch of the Canadian Bar Association published the 2005 Personal Security Handbook for Canadian lawyers, setting out safety protocols and threat assessments. The eighteen-page pamphlet sets out general reactive personal

security measures that lawyers can employ in order to avoid or diffuse confrontational situations, and specifies methods that lawyers can utilize in response to harassment or intimidation (Personal Security Handbook, 2005).

DEFINING WORK-RELATED/WORKPLACE VIOLENCE

Although there are numerous differences between workplace and work-related violence, in this research the similarities intrinsic to both definitions have resulted in a decision to amalgamate the concepts into one term: workplace violence. The term “workplace violence”, in the context of this research, encompasses contentious disputes between lawyers and non-employees situated in both predetermined physical locations where individuals usually work, and/or mobile or geographically diverse areas in which workers are itinerant in the course of their work duties (Martino, 2003). For example, workers whose jobs require them to travel while working may experience violence that does not occur in their immediate workplace, yet these violent incidents may still be work-related. Thus, the term workplace violence as defined here borrows from Wynne, Clarkin, Cox and Griffiths’ definition:

incidents where persons are abused, threatened or assaulted in circumstances related to their work, involving an explicit or implicit challenge to their safety, well-being and health [emphasis added]. (Wynne et al., 1996:1)

Workplace violence pertaining to lawyers can occur in numerous locations. Lawyers often practice law in various sites – business or home offices, courthouses, government institutions – in or about where threatening or violent incidents may occur. What is also equally important to establish is that any abuse, threats and violence that do occur within the definitional confines of workplace violence, must pertain exclusively to a lawyer discharging his or her legal obligations. As set out in the *Annotated Professional Conduct Handbook* (2009), these duties include acting as a “minister of justice, officer of the courts, client’s advocate, and member of an ancient, honourable and learned profession” (Law Society of British Columbia, 2009: Ch. 1, para. 2).

HIGHER-RISK OCCUPATIONS

There have been numerous studies conducted in the past decade on workplace violence in North America and Europe, and results indicate that certain occupations have higher risks for such violence (Boyd, 1995; Yassi & McLean, 2001; Gerberich et al., 2004). Boyd (1995) examined Workers' Compensation Board claims relating to "acts of force or violence" between 1982 and 1992 (p. 493). The study revealed that workers in the health care sector were specifically more prone to workplace violence. For instance, residents suffering from Alzheimer's or other forms of dementia or related health issues in intermediate and long-term care facilities often strike out at care workers because of frustration and/or confusion. Further, Hesketh, et al. (2003) found that 20 percent of psychiatric nurses experienced physical violence and 43 percent received verbal abuse on a regular basis. Benveniste et al. (2005) reported in their study that a higher number (28%) of total reports of violent incidents occurred in mental health facilities. A study of a Taiwanese psychiatric hospital found that healthcare personnel had been exposed to substantial violence and aggression in the past year; for example, including sexual and racial harassment, bullying/mobbing, physical and verbal abuse (Chen, Hwu & Wang, 2009). Also at risk are other healthcare workers such as nutritionists, student nurses, and doctors who reported an increased risk of violence in the workplace (Kling, Yassi, Smailes, Lovato & Koehoorn, 2009). However, Kling, et al. (2009) found that personnel in health centres and health units were not as vulnerable to risk, and in fact reported much lower frequency of violent episodes than those individuals employed in mental or psychiatric health facilities, extended care, and elder care facilities.

Findings from Boyd's (1995) study revealed that approximately 90 percent of Workers' Compensation Board claims from 1992 were received in non-health care occupations – for example, clerks and cashiers made 65 claims, correctional officers reported 40 incidents, police officers and private security workers each made 40 claims, bartenders and waitresses claimed 30 incidents, bus drivers made 30 claims, taxi drivers reported 25 incidents and teachers' aides reported 15 incidents (p. 493). Notwithstanding police and correctional officers, healthcare workers, and so on may be more prone to workplace violence than lawyers, the ramifications of lawyer victimization may affect family, office staff and colleagues, courthouse personnel and the justice system. Although lawyer

victimization may not be considered a high risk occupation, the impact of violence on members of that profession may still have widespread implications that affect justice overall. This, in itself, renders lawyer victimization an important topic. Making the analysis even more frustrating is the fact that in both Canada and the United States, there is no established system for reporting threats or violence against lawyers to the official professional organizations or other central repository. In the main, there are no readily available statistics to commence analysis of how insidious the problem may be, or to determine whether such violent incidents are on the rise (Brady, 1998). However, there are some American statistics that do touch, in part or in whole, on judicial victimization (see Brown, 2005; Brown and MacAlister, 2006 a&b).

LeBlanc and Kelloway (2002) developed a model to assess the predictors and outcomes of workplace violence and aggression on the basis of respondents' job characteristics. They set out 28 specific job characteristics that have the potential for heightened risk such as supervising employees, working with the public (which may include denial of services or dealing with public demands), overseeing resolutions that can affect one's life or livelihood, or dispensing drugs, alcohol, and/or money. LeBlanc and Kelloway (2002) tested their hypothesis that job characteristics may predict potential aggression and violence. Their sample of 254 participants from various occupations, including healthcare workers, police officers, professors, psychologists, and bartenders, was asked a series of questions, including the risk for violence on the basis of job characteristics and a quantification of violence and aggression in the workplace. From the 28 job characteristics, the correlations of risks for violence were significant (e.g., $p < .01$) for the following: "emotional caring of others, effecting decisions that influence other people's lives, interacting with frustrated individuals, disciplining others, and contacting individuals under the influence of either alcohol, illegal drugs and/or medication" (p. 449). Although no lawyers were canvassed in LeBlanc's and Kelloway's study, it is important to emphasize that many of the job characteristics listed in their study as significantly at risk for violence and aggression also can apply to the legal profession. Certainly, as Islam et al. (2003) claimed, occupations at higher risk for injuries are those found in both the public and service sectors, in which workers usually have continual contact with the public, and they note that perpetrators may include hospital

patients, customers, or clients. However, Islam and colleagues' conclusions found that individuals most at risk are those employed in the healthcare, public safety or teaching professions.

Although evidence from available literature confirmed that workplace violence may be increasing, those increases are principally restricted to workers who primarily deal with the public (Wynne, et al., 1996). Thus, in the context of aggression against lawyers, it is posited that many legal practitioners, whose primary client foundation is the public to whom they provide legal services, might be more vulnerable to aggressive behaviours. Further, many lawyers represent or prosecute individuals with mental health issues which heightens their exposure to risk for aggression (Canada's National Occupational Health and Safety Resource, 2005).

The nature of an occupation may only be one of a number of factors contributing to workers' susceptibility to violence. Other risk factors include exposure to vulnerable situations, such as employees who work alone, in small numbers, or in isolated or low traffic areas (Canada's National Occupational Health and Safety Resource, 2005). Moreover, employees who travel away from the base office to meet clients are especially exposed to capricious and defenceless violence. For example, lawyers who work away from their offices or meet clients or other relevant parties in public places may face increased risks when they are removed from the security of a base office or courthouse (Government of Newfoundland and Labrador, 2005).

Regrettably, there is no universal tracking system in British Columbia for workplace violence. The Workers' Compensation Board only covers certain occupations regarding workplace claims that enable them to accurately maintain an index of violence at work. Further, only a small percentage of victims' claims are reported to the police or submitted to the Workers' Compensation Board, either being seen as inconsequential or just part of the job (Boyd, 1995). Thus, statistics may be misleading because individuals are reluctant to report workplace aggression/violence, or consider such behaviour an integral ingredient of the job, so there is no compunction to report it (LeBlanc and Kelloway (2002). Similarly, Ferns and Chojnacka (2005) also corroborate the premise that many victims will not report violent or aggressive incidents because they accept such behaviour as part of the job. Ferns (2005) and Ferns and Chojnacka (2005) credit

this underreporting to victims who feel that reporting such aggressive or violent acts would be useless and a waste of time, the incidents are not serious enough to warrant reporting, fear of blame for the victimization, or they think the reporting procedures are too time-consuming and onerous.

With regard to intervention strategies, Runyan, Zakocs, and Zwerling (2000) analyzed 137 papers on workplace violence. They concluded that adopting a macro approach that involves addressing organizations as a whole rather than at the individual level of analysis would be far more successful than spending time identifying individual risk factors. Working with administrators in policy and procedure revisions could assist managers in effective communication strategies, such as modifying the makeup of office personnel by increasing staff size so issues of stress, isolation and frustration can be effectively managed.

CHAPTER 2.

THEORETICAL PERSPECTIVES

INTRODUCTION

Discussion of the phenomenon of lawyer victimization is often speculative or based on anecdotal examples rather than systematic research. From a micro perspective, certain individuals may have impulsive or aggressive tendencies or mental health issues that supersede common sense and restraint when they become involved with the justice system, which may predispose them to commit atypical behaviours that contravene appropriate and legitimate conduct. Further, if individuals believe they are exploited, unfairly treated or rejected by lawyers and/or the judicial process, they may behave unpredictably or react forcefully (Lind, 1997). In many cases, the surrounding circumstances of legal disputes can be extremely stressful and contentious, creating such overwhelming and powerful personal animosity that judgment can become impaired. Client malcontent may emerge when lawyers employ tactics such as attempting to mislead a client through the intricacies and complexities of the legal system, or pressuring a client into protracted litigation. Some lawyers may betray clients for self-serving or economic reasons, for instance, charging excessive or ambiguous fees (Galanter, 1994; Kovachevich and Waksler, 1991).

From a wider societal perspective, some believe that the public is increasingly frustrated with the justice system, the administration of justice procedures, and lawyers in general (Brown and MacAlister, 2006b; Hengstler, 1993; Samborn, 1993; Stern, 2002). Community perceptions are often reinforced by media accounts of lawyers and judges being at the forefront of controversial legal issues, or allegations that lawyers are greedy and corrupt (Sorensen, 2003; Mulgrew, 2003). These perceptions are sustained by the centuries-old propensity to deride lawyers, to reduce them to negative caricatures. One only has to look at

Dickens' unflattering portrayal of the fictional character of lawyer Tulkinghorn in *Bleak House* or consider Shakespeare's oft-quoted line from *Henry VI* – "The first thing we do, let's kill all the lawyers", to appreciate that lawyers have been targets of ridicule and contempt for centuries. Ultimately, dominant public perceptions may cloud individual attitudes about the legal profession (Brown, 1990). Leger Marketing conducted a 2003 study of 1,529 English and French speaking Canadians, 18 years and older, in which they asked their perception on various professions. The agency found that lawyers were in the bottom fifty percent of a list of twenty professions. Only 48 percent of Canadians had trust in lawyers, with firefighting (96%), nursing (94%), doctoring (89%) and teaching (88%) professionals taking the lead as the most trusted in Canada. Car salespeople (20%) and politicians (14%) were the lowest-ranked professions. Just under lawyers were journalists (46%), insurance brokers (46%) and real estate agents (40%) (Leger, 2003). Recently the Law Society of British Columbia polled 800 British Columbian residents on their perception of lawyers and the effectiveness of the Law Society of British Columbia. Of those respondents who rated lawyers in the 8–10 range, only 16 percent claimed lawyers give good value for their money, 15 percent said lawyers are committed to public service and only 13 percent were pleased with the services that the lawyers provided (Law Society of British Columbia, 2011).

Further, the public may misunderstand legal procedures and language, leading to an erosion of confidence and support for lawyers and the justice system. Moreover, a prevailing belief that lawyers misuse their authority to maintain illegitimate privilege and power lends credence to the view that some lawyers may exploit the system for personal gain (Galanter, 1994). Any of these preconceived notions may taint and dominate a person's estimation of lawyers when seeking legal consultation, and such overpowering negative societal impressions may underscore some participants' predispositions to such a degree that aggression against a lawyer ensues.

Given the complexities of interpersonal violence, negative attitudes held by the public may not be solely to blame for aggression against lawyers. Pursuant to Victim Precipitation Theory, the legal profession, along with its members, may be partially to blame for its own workplace victimization. Premised on the victim precipitation theory, lawyers may actually exhibit

characteristics that unknowingly threaten or encourage an attacker, or actively provoke confrontations. Such theory, of course, does not absolve the perpetrator of wrongdoing or blame the victim, but can establish or link some aspects of the interactional process between lawyers and the public (Siegel & McCormick, 2010). Therefore, the question is put forth – can lawyers individually, and the legal profession as a whole, cause their own victimization? For example, many legal scholars contend there may be a structural shift within the legal profession such that long-established traditions and canons of professional ethics are being reallocated to reflect more of an income generating enterprise. Specifically, the legal profession may be moving to a more mercenary approach, associated with commercialism (Pearce, 1995). Indeed, many legal scholars have contended that the profession is in crisis as this new business approach has significantly influenced the way many people perceive lawyers (Brown, 1990; Burger, 1995; Linowitz, 1994; Peltz, 1989; Re, 1994; Rehnquist, 1987; Wendel, 2005). Analyzing the profession and its members in this vein may offer some reasons why the public has adopted a cynical attitude toward this vocation and the manners and mentality allegedly espoused by its members.

Accordingly, focus must also be directed to lawyers' ideologies – that is, how lawyers envisage their roles and practices. Nelson & Trubek (1992) believe such visions play a role in the structures and processes by which structural factors change over time. They explain that “the internationalization of the economy, the explosion in mergers and acquisitions, and the intensification of competition among corporate law firms are phenomena that correspond to microlevel shifts in the strategies and norms of governments, private enterprises and legal actors” (p. 40). Notwithstanding, such commercialistic ambitions would not be intrinsic to government lawyers in their capacities as prosecutors in criminal cases or as advocates in civil cases. The government lawyer is in reality the “government in the exercise of his or her powers” and “she or he has independence because they are neither aided nor hampered by the wishes of a client” (Chief justice of Ontario's Advisory Committee on Professionalism, 2004: 24).

Lawyers' heightened entrepreneurial spirit emerges from competition due to a substantial lawyer population growth and also from increasing demands for a host of legal services (Brown and MacAlister, 2006b). Therefore, due to an increased lawyer population and its response to client demands, many private

lawyers' economic ambitions, instead of the best interests of the client, may become the prime directive underpinning their legal practices, possibly leading to public derision and erosion of their status in today's society (Nelson and Trubek, 1992). Consequently, according to Nelson and Trubek, the profession "is losing the very legitimacy that protected it from attacks on key aspects of its professional monopoly" (1992: 13).

In Canada, there has been a professionalism project in Ontario developing over the last few years under the leadership of former Chief Justice Roy McMurtry. In an address to the third colloquium on professionalism, Chief Justice McMurtry (as he was then) opened his address as follows:

I was . . . called to the Bar in a much simpler age. The ranks of our profession were much smaller and there was undoubtedly less of the often ferocious competition that I have heard about from time to time in more recent years. The largest law firm in Canada the year of my call was about 25 lawyers. The concept of billable hours was largely unknown and it was, I repeat, a much simpler age. However, I do recall that the concept of the profession as a helping profession was perhaps more deeply entrenched than today. . . (Chief justice of Ontario's Advisory Committee on Professionalism, 2004: 3).

As the former Chief Justice reminds us, Canada is not the United States, and although much of the literature on lawyer professionalism, economic pursuits and legal advertising in the last 20 years is American-based, he does emphasize the need for the Canadian legal profession to consider the concerns expressed by American legal professionals as a "wake-up call" (p. 7).

To begin, it is impossible to pinpoint a specific theory or set of theories that comprehensively explains lawyer victimization. Weiner and Hardenbergh (2001) conclude that there are no explicit hypotheses that adequately address this phenomenon. Accordingly, I will argue in this chapter that the problem of lawyers' victimization must be approached from three interdependent perspectives, namely;

1. Psychological/biological/sociological approaches must be examined to determine if aggression originates within this environment. Perpetrators who aggress against lawyers may be embedded in and influenced by multiple factors.

2. The organizational and practice dynamics of the legal profession and its members' creeds must be analyzed in the context of contentions that changes and shifts have occurred, possibly resulting in heightened animosity from the public sector that represents the client base for most lawyers, certainly from the perspectives of Victim Precipitation and Corporate Culture Theories.
3. Public opinion must be analyzed to gauge the general disposition towards the legal profession to determine if disparagement towards lawyers prevails.

PSYCHOLOGICAL/BIOLOGICAL/SOCIAL DYNAMICS

Although there are numerous theories that explain why individuals may become aggressive, for the sake of brevity and relevance, I will focus only on those particular theories that are germane to the topic of aggression against lawyers. Trait theorists focus on basic human drives such as violence, aggression and impulsivity, but at the same time are cognizant of environmental factors such as family upbringing, educational accomplishments and neighbourhood environments as co-dependent variables in attempting to determine causes underpinning atypical behaviours.

One of the first group of scientists to investigate frustration and its association with aggression was Dollard, Doob, Miller, Mowrer & Sears (1939). Their hypothesis was innovative and groundbreaking in its intent to explain how human aggression can be provoked by frustration, which theory sparked not only subsequent debates and denials, but also gave birth to succeeding expansion and integration on the frustration-aggression nexus. Dollard and his colleagues advanced basic suppositions to explain the origin and consequences of human aggression. In fact, their core submission was brief and concise – “aggression is always a consequence of frustration” (Berkowitz, 1989: 61). However, critics were quick to point out some erroneous assumptions. For instance, Zillmann (1979) disputed the frustration-aggression theory and explained that impeded goals or expectations will not generally produce hostility or aggression. Further, Bandura (1973), in a later treatise countered that social learning, not frustration, determines how individuals respond to arousal. He

censured the Dollard hypothesis as only a “drive formula”, postulating that frustration merely creates a “general emotional arousal” (Bandura, 1973: 63). In social learning theory, aversive treatment produces a general state of emotional arousal that can expedite myriad behaviours, depending on the types of responses the individual has learned for coping with stress and their relative effectiveness. Such responses may include engaging in substance abuse (drugs and alcohol), resorting to aggressive tactics, emotionally withdrawing or becoming dependent on others, becoming lethargic, or exhibiting psychosomatic symptoms, to name a few (Bandura, 1973).

Although Berkowitz (1989) concurred with Bandura to some extent, he ameliorated Dollard and colleagues’ theory by offering his own integrated version. He put forth the idea that aggression can be learned behaviour whereby individuals may resort to violence against others, not because they have been thwarted in the past, but because they think this action will bring them other benefits such as achieving some semblance of justice.

At the outset then, two important distinctions must be made – first, the inability to achieve a set goal could lead to either aggressive or non-aggressive responses. It is not necessarily foretold that blocked goals will necessarily lead to overt actions (Miller, 1941). Second, at the time, Dollard and his fellow researchers failed to consider the bifurcation of aggression, that being the differences between hostile and instrumental descriptors – hostile aggression is to do harm whereas the aims of instrumental actions are the attainment of such objectives as money, social status or territory (Berkowitz, 1989). On the other hand, Bushman & Anderson (2001) claimed the hostile and instrumental dichotomy failed to take into consideration aggressive acts with multiple motives. Therefore, they defined hostile aggression as “impulsive” and instrumental aggression as “premeditated” (p. 3), and in their view, “anger-based hostile aggression is also based on a desire to set things right (**justice**) or to repair perceived damage to a public or private self-image [and can] lead to a more thorough search for variables that influence these more instrumental motives” (p. 8) [emphasis added]. Further, they maintained that focus must be directed at a trilogy of factors – motive, opportunity and social milieu. For instance, in contemporary society, there is such a diverse mixture of motives and factors that adopting a dichotomous view between hostile and instrumental

aggression will lead to inadequate attempts to control, modify or prevent aggressive behaviour. In the final analysis, Bushman & Anderson asserted that dichotomizing aggression into hostile or instrumental will only impede, not advance, an understanding of human aggression.

There are also other dynamics that must be contemplated when reviewing the frustration/aggression premise. For example, many scholars argued the following components must be incorporated into this supposition:

1. the subjective interpretation of expectation violations (Dollard et al., 1939);
2. how social cues in the immediate situation can influence the strength of overt action (Harris, 1976);
3. a person's susceptibility to aggressive signals (Hanratty, O'Neal, and Sulzer, 1972);
4. hostile actions caused by competition of others who hinder one's attempts to attain a contested goal(s), which may lead to threats and loss (Berkowitz, 1962);
5. communal rules and inhibitions against aggressive responses (Cohen, 1955);
6. previous learning and exclusive differences advocate learning can change the inclination to respond aggressively to failure of intended goals (Bandura, 1973); and
7. psychological and physical discomfort can produce an anomalous effect (Zillmann, Bryant, Comisky & Medoff, 1981).

Such calculations must be integrated when theorizing aggression against lawyers and the dynamics surrounding individuals' involvement with the justice system. For instance, in a series of twenty-five interviews of Vancouver lawyers conducted in the 2005 B.C. Study, each participant tendered his or her own assessment of those individuals who have engaged in acts of aggression against lawyers (Brown & MacAlister 2006b). Those opinions included, among others, frustration with the legal/justice system, especially the court system, misunderstanding and/or ignorance of Canadian laws, incapacity to blame themselves for legal predicaments, and myriad psychological motivations. However, of particu-

lar relevance was the fact a majority of the participants believed clients or individuals who are dealing with matters in the legal system feel **frustrated**.

Pursuant to review of the numerous hypotheses founded on the frustration-aggressive symbiosis, Berkowitz (1989) subsequently proffered an integration of former proposals and amendments and argued that frustrations give rise to aggressive inclinations because of aversiveness. His reformulation stated as follows:

. . . aversive events evoke negative affect (any feeling that people typically seek to lessen or eliminate), and it is this negative feeling that generates the aggressive inclinations. From this perspective, an unexpected interference is more apt to provoke an aggressive reaction than is an anticipated barrier to goal attainment because the former is usually much more unpleasant. This present formulation also contends that the aggression-instigating effects of frustrations and insults cannot be compared in the abstract, as some psychologists have done. All frustrations are not equally bothersome, and all insults do not generate the same displeasure. One can be bitterly disappointed at not reaching an attractive and expected goal and regard another's insult as only mildly unpleasant. It is not the exact nature of the aversive incident that is important **but how intense the resulting negative affect is** (p. 71) [emphasis added]

Berkowitz (1990) also questioned whether individuals who suffer unpleasant occurrences need to hold certain types of beliefs about the aversive event or its consequences before resorting to anger – a term he insists must include both irritation and annoyance. He further opined that any negative or aversive stimulus, notwithstanding whether it is justified or unjustified, could result in some tendency to assail. Dill & Anderson (1995) tested this hypothesis by gauging participants' frustration levels by blocking expected gratification in three different ways – an unjustified manner, a justified manner or no blocking at all. Their conclusions substantiated Berkowitz's hypothesis in predicting significant levels of hostile aggression when participants' expected gratifications were blocked unjustifiably, as well as aggression, albeit somewhat reduced, when expectations were justifiably blocked.

Subjectivity, then, is also an extremely important component when interpreting important cues in the legal realm, as many individuals may perceive justified actions as unjustified. If individuals involved in legal disputes subjectively perceive some justified legal action by, for example, lawyers or judges, as unreasonable and unjustified – that causes them to feel frustrated and angry

– violence could ensue. In addition, Lind’s (1997) Relational Model of Justice theory questioned what motivates individuals to view treatment as unfair. Applying Lind’s hypothesis in the legal context, individuals may subjectively determine they have been unduly denied dignified treatment or believe their views or needs have been ignored by lawmakers or other personnel in the justice system. These misconstructions may lead individuals to assess interim or final decisions as inequitable or that decision-makers are biased. Lind explained that once individuals perceive any modicum of injustice, they may engage in a search for some forum or action that will restore justice. If individuals consider their relationship with the judicial system is fundamentally **positive**, they will adopt an optimistic attitude and response. Then again, if individuals feel exploited or rejected by the judicial process or they view their treatment as iniquitous, they will perceive their relationship with that system as **negative**. One of the key elements of the Relational Model of Justice is the notion that individuals will draw their perceptions that determine whether they feel fairly or unfairly treated on the modelling of daily social relations (Lind, 1997). The consequences of such feelings may determine whether individuals adhere to standard norms of procedure or deviate and disobey common authorities and practices.

Wingrove and Bond (2005) studied ways in which people process information and events around them by testing, in a sample population, reading times in ambiguous situations. They investigated the hypothesis that trait anger is linked to a heightened propensity to interpret certain nebulous circumstances as anger-provoking. Testing the subjectivity of how individuals interpret certain scenarios is extremely relevant to the study of lawyer violence considering that each episode of aggression is unique in its own right and each factor must be weighed in light of the incident. Wingrove & Bond concluded that

Sentence reading time is assumed to reflect, in part, the congruence between the information in the sentence and the mental model constructed by the reader. This therefore suggests that those with angrier dispositions were more likely to be anticipating angry reactions on the part of the fictional characters they were reading about. The results support the proposal that readers make online inferences about character emotions (p. 467).

It is vital that researchers understand why some individuals, notwithstanding age, gender and circumstances, anomalously react, as opposed to those

who shrug off contentious legal disputes and outcomes and respond in a “positive” manner – that is, without aggression. Wingrove & Bond (2005) noted that “individual differences in anger and aggression may not only reflect differential attentiveness to aggression-related stimuli, but are also likely to reflect differing interpretation of social situations” (p. 464). It is the diverging interpretations of social situations that are relevant to the current study. Those individuals with hostile outlooks process angry reactions relatively faster.

On the other hand, Lazarus, Averill & Opton (1970) found that people who experience negative occurrences must view them as threats to their personal prosperity before becoming angry, and certainly individual emotions will certainly play an important role in how individuals react in adverse situations. Emotions such as sadness and depression may be significant factors in response measures. Certainly litigants who are pressed with life-altering legal actions may become depressed and saddened over uncontrollable events in their lives. For example, situations that elicit sadness or depression frequently evoke anger (Termine & Izard, 1988). In the 2005 B.C. Study, many family law lawyers experienced aggression because of the nature of family law practice and the emotional unpredictability of the parties involved. “Suffering is seldom ennobling” as Berkowitz (1990) very effectively explained, so when people “feel bad”, they are all too likely to harbour angry thoughts and feelings, and retain vivid memories that may prompt aggressive obsessions (p. 502).

Bies, Tripp & Kramer (1997) claimed that in response to a perceived personal harm or violation of the social order, individuals may seek revenge on those whom they feel are responsible. In other words, when events occur that seem unjust or that appear to disrupt professed equity in their social relationships, avengers may attempt to restore balance and equity through their own actions. Bies, et al. also suggested that although revenge behaviour frequently emerges as being a response to a particular impulsive event, most acts of revenge are more or less often entrenched in a “protracted history of perceived injustices or conflict” (p. 24). Consequently, they believed that when events occur that threaten an individual’s self-esteem or control, (s)he may take actions to restore self-esteem and gain some semblance of control.

An analysis of revenge conduct and cognitions must take into consideration the organizational structures and settings in which revenge acts unfurl. In

other words, as Bies et al. (1997) explained, “such relationships are almost invariably hierarchical and are characterized by significant asymmetries in the information available to the parties, their relative power and status in the relationship, and the extent to which they can influence the processes and outcomes that affect them” (p. 27). This is extremely relevant in respect of a court system and the processes before and after a hearing. In fact, the legal system is the epitome of hierarchy, often the foundation for intimidation and power differentials for many people. Most importantly, the role that the legal system plays in influencing outcomes is monumental. Not only is a court’s decision binding, but in order to appeal such decisions, an appellant must attend to another level of hierarchy which has its own sets of rules and regulations. As Bies et al. made clear, “differences in power, status and influence can translate into potent differences in the parties’ perceived control over each other and perceptions of dependence, vulnerability and threat” (p. 27).

Berkowitz and Harmon-Jones (2004) and appraisal theorists (Scherer, Schorr, & Johnstone, 2001) assumed that blame definitely contributes to the propensity to aggress. For instance, Berkowitz and Harmon-Jones believed blame makes a “quantitative” difference, actually intensifying anger, as opposed to those appraisal theoreticians who postulated that blame contributes to a “transitional difference” in converting frustration into anger (Clore & Centerbar, 2004: 140). For example, in many circumstances, assigning blame could be founded on an ineradicable, long-standing censure towards not only institutions and circumstances that blamers believe have made their lives unbearable, but also towards both known and unknown individuals who they surmise are responsible for such persecutions (Clore & Centerbar, 2004).

Other theorists have concluded that responsive events may stem from impulsive rather than premeditated reflections. For example, Buss & Plomin (1975) put forth the hypothesis that impulsivity is generally considered a “tendency to respond quickly to a given stimulus, without deliberation and evaluation of consequences” (as cited in Houston & Stanford, 2004: 305). Further, Moeller et al. (2001) reported impulsivity as a “predisposition toward rapid, unplanned reactions to internal or external stimuli without regard to the negative consequences of these reactions to themselves or others” (as cited in Houston & Stanford, 2004: 305). Hollander, Baker, Kahn & Stein (2006) emphasized that to

completely understand impulse-control disorders, it is useful to define impulsivity as the “core symptom” that underpins these disorders (p. 1). As they explained, impulsivity is evidenced behaviourally as “carelessness, an underestimated sense of harm, extroversion, impatience, including the inability to delay gratification, and a tendency toward risk taking, pleasure and sensation seeking” (pp. 5-6). Stanford, Houston, Villemarette-Pittman & Greve (2003) categorized impulsive aggression as “reactive or emotionally charged aggressive response characterized by a loss of behavioral control” and premeditated aggression as “a purposeful, controlled aggressive display. . .” (p. 774). Premeditated aggressors display substantial personality pathology such as verbal and physical combativeness, anger, hostility, psychoticism and neuroticism (Stanford, et al., 2003).

Houston & Stanford (2004) attempted to separate impulsivity as a personality construct from a specific form of aggressive behaviour associated with a lack of behaviour control. In their study, twenty-four undergraduate students were chosen to answer a two page questionnaire containing the Barratt Impulsiveness Scale – a set of questions that pertained to impulsive aggressive criteria. For example, one sample question put forth was “Have you had episodes where you were enraged or angry in such a way that you felt it was excessive or inappropriate to the situation?” (p. 306). In the end, their findings did raise issues as to the exact role of impulsivity in the expression of different types of aggressive behaviour. As they explained:

Individuals high in impulsivity may be unable to control certain behavioral impulses, but this phenomenon is not necessarily related to emotion. While some individuals (i.e., antisocial or premeditated aggressors) are high in impulsiveness, they can exhibit violent behaviour of a controlled nature, unrelated to their emotional state. In contrast, impulsive aggressive individuals clearly display a lack of behavioral control specifically when angered, agitated or upset (p. 311).

Therefore, each violation against a lawyer(s) must be examined independently in order to determine the dynamics of each interaction, certainly to determine if it were pre-planned and predatory as opposed to impulsive. With regard to the assault on lawyer Graeme Keirstead, Raymond Lehoux concealed a 24-inch scythe in the courtroom before attacking Keirstead in a manner that revealed premeditation in both planning and execution. Although Lehoux had

no previous knowledge that Keirstead was attending court that morning, he still proceeded with his assault (see *R. v. Lehoux*, 1997).

In many cases, tendencies to abruptly violate or threaten may stem from childhood conduct problems, especially for males (Babinski, Hartsough & Lambert, 1999). Babinski et al. conducted a follow-up study of 230 male and 75 female adults (average age 26 years), who were part of an earlier 1974 study of 5,212 school-age children from public, parochial and private schools in the East Bay Region of San Francisco, California (Lambert, Sandoval & Sassone, 1978). The subjects from the 1974 study were between the ages of 5 and 12 years and among the sample were: (1) 229 physician-identified hyperactive children; (2) 160 children chosen randomly from the same grades and schools as the hyperactive children and (3) 103 children who were considered having some type of behaviour symptoms.

Other studies have substantiated the correlations between early childhood/adolescent disorders such as hyperactivity-impulsivity, early conduct problems and Attention Deficit/Hyperactivity Disorder (ADHD) and criminal behaviours (Babinski, Hartsough & Lambert, 1999; Farrington, 1991; and Loeber & Dishion, 1983). Such disorders could potentially affect a child's future behaviour in society and relationship with legal authorities. For example, the findings of Babinski et al. (1999) made clear that both hyperactivity-impulsivity and early conduct problems, both individually and jointly, account for greater likelihood of criminal behaviour in males. The authors also determined that symptoms of hyperactivity-impulsivity, but not Attention Deficit/Hyperactivity Disorder (ADHD), are the prime causes behind lawbreaking risks. The final analysis revealed that individuals with severe conduct problems and hyperactivity-impulsivity display a much higher arrest rate (57 percent) as opposed to those subjects diagnosed solely with conduct problems (29 percent). For males especially, childhood conduct problems exacerbate the risk for criminal activity, but if such problems are combined with hyperactivity-impulsivity issues, the likelihood of increased risks could occur.

Female candidates, on the other hand, displayed ambiguous findings. Notwithstanding the smaller number of females samples in this study who did engage in criminal activities, the researchers did conclude, however, that some girls with early childhood problems may be prone to future illegal risks, while

those diagnosed with hyperactivity-impulsivity or a combination thereof may be at greater risk for criminal activity (Babinski et al., 1999).

Although these findings do not suggest that every child (especially males) with early developmental problems, conduct disorders and hyperactivity-impulsivity diagnoses will ultimately engage in illegitimate activities as they age, it does provide a foundation upon which to base opinions of the likelihood for possible future offending. In this case, Pulkkinen & Hurme (1984) also conducted a longitudinal study of a group of prepubescent boys and girls over a twelve-year period. Their data revealed that early aggression seemingly could predict potential weaker self-control in later life, resulting in engagement of alcohol misuse, aggression, theft, and assertive behaviour (some illegitimately). Therefore, if individuals with known childhood behavioural problems are involved in legal altercations, illegitimate violations may ensue if they are provoked, rejected or disappointed in the rendering of a legal outcome. Of course, researchers cannot look at this type of behaviour in isolation without examining contextual factors of whether youth with these conditions improve their behaviour if their environment or family circumstances change, and if opportunities for success in school and work change or improve. Further, there could also be a number of intervening factors that would influence how a person behaves as an adult (e.g., marriage, children career), relegating the childhood diagnosis to a minor factor. Unfortunately, the chances of lawyers knowing an adult's background are often slim.

McMurrin, Blair & Egan (2002) studied the correlations between aggression, impulsiveness, social problem-solving and alcohol use. In their study, they chose male participants for their study group, as studies in the past have shown that drunken aggression is more common in males. Alcohol, in its own right, can invalidate executive cognitive functioning, weaken attention abilities, reduce abstract reasoning and disconcert problem-solving strategies. In addition, research has shown that cognitive and behavioural features of impulsivity can influence social skills such as problem-solving abilities (McMurrin, Blair & Egan). Given these contingencies, it is hypothesized that cognitive and behavioural deficits, combined with alcohol abuse and impulsive aggression, may increase the risk for violent behaviour and deficient problem-solving abilities. Unfortunately, early impulsivity may also be a direct predictor

of heavy drinking in later life, which compounds the problem substantially. McMurran and colleagues' findings significantly supported the proposition that high levels of impulsivity lead to poor social-problem-solving, which is then associated with aggression. They concluded that impulsivity may be an actual obstacle in early formative years and actually hinder or block social problem-solving development. Problem-solving inabilities or deficits may fortify and foment an individual's involvement in legal or criminal disputes and consequently cause frustration and aggression when faced with the complexities of legal procedures and potentially incomprehensible legal terminology.

One difference that must be pointed out at this stage is the disparity in gender aggression. Archer's (2004) study examined a sample of 165 British male and female students revealing significant differences in the attitudinal predictors of trait aggression wherein males expressed aggression in physical rather than expressive terms favoured by the female subjects. For example, the male subjects believed that action or contact is necessary in order to get their point across to the opposing party whereas the female students utilized more expressive language, whether verbal or written, to aggress and abuse rather than physical contact. His research data substantiated previous findings that men rated physical aggression and fighting more positively than women.

O'Connor, Archer & Wu (2001) studied males in different age ranges and how they would respond to certain provoking scenarios. The data showed that younger men under the age of 28 years are more inclined to respond with physical aggression, whereas older men – that is over 28 years – are likely to be assertive or abusive, using body language and verbal expression rather than physical contact. O'Connor and colleagues postulated that as men age, their physical strength and passion decline with age and their mental comprehension in estimating the risks and benefits of such responses intuitively increases. However, it is proposed here that as males age, they acquire wealth, status, material assets, family, property, and so on, so older men may have a lot more to lose if legal arguments arise that threaten loss or reduction of these possessions. Contentious responses may occur if men, of any age, are threatened with loss of personal assets or status.

Dill & Anderson (1995) contended that frustrations may disseminate into a wider arena involving innocent parties. Berkowitz (1981) tested the effects of the

“innocent party” dynamic and concluded that in some cases there may be only an innocuous and inconsequential connection between the target of the frustration and an innocent party. In one particular case in his studies, the exclusive connection between the two parties was the fact they both shared the same name (for example, “Dexter”). Such is the case in *R. v. Lehoux* [1997], when Graeme Keirstead, appearing in this one instance on behalf of his firm’s client, Mrs. Lehoux, in a court application in place of her lawyer, was attacked by Mr. Lehoux, a man whom he had never met. The only association between Mrs. Lehoux’s regular lawyer and Graeme Keirstead, who attended court solely as a favour to his colleague, was the fact they were both lawyers and members of The Law Society of British Columbia. But in Mr. Lehoux’s mind perhaps, both were his ex-wife’s lawyers, and therefore his adversaries. Thus, innocuous as the link may seem, the association of “brother-sisterhood of lawyers” may just be the precipitating factor for aggressive tendencies. It is important to emphasize that in Lehoux’s mind, Keirstead was not an innocent party but part of the conspiracy in the legal actions being brought before the court. His general dislike for lawyers was the associative and frustrating link behind his premeditated attack. Moreover, Lehoux, who was incarcerated for a number of years for the offence and regularly attended counselling sessions, displayed no remorse for his attack, claiming only that he was the victim in the circumstances, not Keirstead (Brown & MacAlister, 2006a, 2006b).

Allan & Gilbert (2002) conducted a unique study on the social rank/status of a target and how anger affects anger experience and expression. The authors determined that rank does indeed affect anger expression, with more anger directed to a lower ranked target as opposed to “up-rank”. Therefore, social rank depends on an individual’s unfavourable social comparison, submissive behaviour, personality disposition and cultural factors (Allan & Gilbert, 2002). In other words, some individuals may be sensitive to their perceived social standing and are “rank sensitive”. The authors posited that it is possible that “rank sensitive people” may exhibit what is called “the slime effect” (p. 552) – upward-licking – downward-kicking (Vonk, 1998). Allan & Gilbert concluded that relative rank and social power differentials between individuals should be considered when studying anger expression. If lawyers, as public opinion polls suggest, are considered by the public to be a lesser-favoured profession (Leger,

2003), then the “downward-kicking” trend may occur if lawyers are possibly perceived as “lower ranked”. On the other hand, lawyers, who might be considered in certain circumstances and perhaps by lawyers themselves to be of equivalent or higher rank and status than some of their clients, could possibly experience less aggression if their rank is perceived by some parties as equitable. Since data from the B.C. Study do indicate that older lawyers (60+) received less aggression over a lifetime of practicing law than younger lawyers, then perhaps the legal profession was held in higher esteem in yesteryears (Brown & MacAlister, 2006a&b). Perceptions of the legal profession may have diminished over the years, narrowing the subjective discernment of relative rank and social power differentials. Moreover, even if lawyers might be perceived as the same or lower social rank, they may also possess legal knowledge far beyond the client’s expertise, and this, in and of itself, may cause frustration – e.g., the notion that lawyers possess knowledge that is not equal and therefore immobilizes the client (who does not possess this knowledge).

Allan & Gilbert (2002) set out another interesting conjecture – anger and entrapment. The act of being entrapped is a very interesting concept in light of aggressive tendencies because entrapment in this sense means the inability to remove oneself from conflict or aversive circumstances. Gilbert & Allan (1998) found that feeling trapped can eventually result in depressive or suicidal tendencies. It can be surmised, therefore, that people who feel trapped in unpleasant circumstances may become irritable and angry, certainly in contentious lawsuits where disputants who are forced to engage in litigious events or face loss of important personal values and assets, and feel trapped in a lawsuit. Such entrapment may provoke individuals to anger and aggression. This can be especially true if alternative dispute resolutions with less adversarial strategies have been rejected. For example, when Peter Matas killed his ex-wife’s lawyer, Fred Gans, in 1978, he blamed lawyer Gans for his troubles and claimed he had “nothing to live for” because he had lost everything that he held precious – his wife, his children and even his car (Globe & Mail, 1978: A5). Family issues more often than not involve partners in polemical discussions, certainly when children are involved, thereby forcing partners to often feel “trapped” if these proceedings are stalled. Dissolution of a partnership/marriage, resolution of all issues, and moving forward with life, are often hindered due to contentious legal

battles. In the end, Allan & Gilbert (2002) pose an interesting question as to the direction of causality:

Do those individuals who have problems with anger and hold anger in, tend to feel or become easily trapped, or is it that in becoming trapped there is an increase in anger? (p. 561)

Lastly, an argument can be made that the legal profession is now looked upon as a business and the lawyer/client privilege, although still bound by legal ethics, has become more of a marketing enterprise with the client becoming the “customer” of a business. Certainly within this context customer disloyalty could occur. In legal cases where lives and livelihood, businesses, money and family can be at stake, retaining customer loyalty in the legal business takes patience, diligence, and simple hard work to keep a customer satisfied, especially when the stakes are high. This may require the lawyer to express and maintain empathy for the client’s situation, continually explain the ongoing legal process, and generally being available as much as possible to support the customer. Adhering to this basic creed will allow lawyers to foster customer loyalty, reap economic benefits and sustain long-term business relationships. Thus, taking Stauss, Schmidt & Schoeler’s (2005) model of the negative effects of customer loyalty programs into the context of lawyer/client relationships, customer frustration may have detrimental effects on such relationships. As Brown & MacAlister (2006a&b) made clear, lawyers believe that many clients feel frustrated with the legal system, including the court system, Canadian laws, and legal practitioners.

Framing Stauss, Schmidt & Schoeler’s (2005) customer loyalty program within the frustration construct, one could postulate that customers (or clients) who do not receive a reward (as set out by their lawyers) may become frustrated and angry at the negative outcome. Stauss and colleagues applied five constructs of the frustration theory to their study on customer loyalty programs:

1. “frustration is exclusively the result of negative expectation discrepancy;
2. frustration refers to the negative consumer events in which the expected goal or reward is not reached;
3. frustration is defined as a strongly negative emotion;

4. frustration postulates *ex ante* an explicit goal, for example, customers have a definite idea about the aspired situation or the expected rewards;
5. a necessary precondition of frustration is that the customers assume that they will reach the aspired goal because of their previous experiences or explicit promises by the company" (p. 234).

From a marketing strategy, client frustration and disloyalty can lead to deleterious repercussions for the legal profession. Indeed Stauss, Schmidt & Schoeler's (2005) study demonstrated that customer frustration is not specifically aimed at the loyalty program itself but on the company and the relationship between customer and company. The correlation between loyalty programs and lawyer/client relationships can be analogous to the trust and connection a client in need of legal services would have with his/her lawyer. Therefore, frustration with the lawyer/client association could result in potential dubious behaviour against the lawyers involved in a legal action.

Discrimination in loyalty programs was another factor attributing to frustration. If customers of loyalty programs, perceiving themselves as valued customers, were in fact treated in a diminished fashion because of their status with the program, anger and frustration would arise (Stauss, Schmidt & Schoeler, 2005). In the context of legal situations, if individual clients, as opposed to perhaps the more lucrative corporate client, intuit abatement of legal services, they may feel they have been discriminated against because of their hierarchal standing. This again could cause fractures in a lawyer/client association, leading to weakened trust and heightened intolerance.

Lastly, lawyers practicing in specific areas of law that involve substantial courthouse attendances such as prosecutors, criminal defence or general litigators may often face increased violence (see see Calhoun, 1998, 2001; Greacen & Klein, 2001; Hansen, 1998; Harris, Kirschner, Rozek & Weiner, 2001; Jenkins, 2001; Kelson, 2001; Weiner, Harris, Calhoun, Flango, Hardenbergh, Kirschner, O'Reilly, Sobolevitch & Vossekuil, 2000). To be clear, certain types of law draw heightened risk, certainly if lawyers spend a large amount of working time in legal arenas which attract unwanted aggression. Pursuant to Cohen and Felson's (1979) Routine Activities Theory, the impetus to commit crime is continuous, with people always willing to break the law for various reasons. According to

Cohen and Felson, three variables are evident: accessibility to targets; absence of protection such as sheriffs or police; and the attendance of aggressors who may have some complaint against the legal system (clients, accused, etc.). For example, if lawyers (targets) are present in courthouse hallways without security cameras or sheriffs (protection), aggression can occur because of lack of “capable guardians” (Siegel and McCormick, 2010: 123). Often, however, crime prevention can be accomplished through an approach known as “situational crime prevention”, a deterrence strategy first developed by Oscar Newman in the 1970s (Newman, 1973). Known for its architectural redesigns that thwart crime, situational crime prevention was groundbreaking in devising strategies that deter potential offenders through environmental projects (see Brantingham and Brantingham, 1971, 1988, 1991). Nonetheless, the Brantinghams claim that “generic programs cannot address the diversity of criminal behaviour and need to be targeted toward specific social-order problems” (Siegel and McCormick, 2010: 154). In this case, the vicinity around courtrooms in courthouses, such as courthouse hallways, sidewalks outside of the courthouse, courthouse elevators, and nearby restaurants, may not be protected because security cameras and/or sheriffs do not patrol these areas. Absence of these protective measures may affect those litigators who frequent courthouses on a regular basis. Some solutions could be to implement a “buddy system” for walking to and from the courthouse, formal surveillance (CCTV), high-intensity street lighting or security guards situated in more vulnerable areas of the building (Jeffery, 1971). In fact, Welsh and Farrington (2004) found that both CCTV and street lighting are equally effective in decreasing crime.

In sum, it is impossible to include every conceivable theoretical assumption in the space allowed here, but some of the pertinent ones that are specifically relevant to aggression against lawyers are described.

ORGANIZATIONAL AND PRACTICE DYNAMICS OF THE LEGAL PROFESSION

The claim that the legal profession has lost some aspects of its professional status and succumbed to commercialism is a common belief among many legal scholars (Brown and MacAlister, 2006b). The American Bar Association identified six

components as being the essence of professionalism: “ethics, integrity and professional standards; competent service to clients while maintaining independent judgment; continuing education; civility; obligations to the rule of law and the justice system; and *pro bono* service” (Shestack, 1998: 1). According to McMonagle (1990) “a profession is not a business. It is distinguished by the requirements of extensive formal training and learning . . . and a code of ethics imposing standards qualitatively and extensively beyond those that prevail or are tolerated in the marketplace . . .” (p. 20). Professionalism was also defined by Roscoe Pound in the context of a group “pursuing a learned art as a common calling in the spirit of public service . . . [it is] no less a public service because it may incidentally be a means of livelihood, and pursuit of the learned art in the spirit of public service is its primary purpose” (cited in McMonagle, 1990: 20).

Numerous Canadian scholars contributed papers to a colloquium (fourth in a series) on the subject of the Canadian legal profession and lawyer professionalism (see Cronk, 2005; Glasbeek, 2006; and Varro & Perell, 2004). From the working group of the Ontario advisory committee on professionalism in Canada, a number of elements were laid out regarding the professional aspect of lawyering, including integrity, independence, honour, leadership, pride, spirit and enthusiasm, service to the public good and “balanced commercialism” (Chief Justice of Ontario’s Advisory Committee on Professionalism, 2004). The Chief Justice’s working group also took the American literature to heart, quoting in their working paper many of the American legal scholars’ philosophy on the professionalism/commercialism dichotomy and ameliorated the differences of both paradigms into a term they called “balanced commercialism” (Chief Justice of Ontario’s Advisory Committee on Professionalism, 2004). Setting out the requirements for the legal profession to balance their traditional dedication to the public sector with the increasing demands on economic pursuits and competition, the working group did concede that “it may at times be difficult to achieve the middle ground between public service orientation and economic demands” (Chief Justice of Ontario’s Advisory Committee on Professionalism, 2001: 9).

Brown (1990) questioned the ethics and intentions of today’s legal profession. As a former president of the United States Federal Bar Council, he argued that the once honourable profession is plummeting into a “miasma of crime, greed, perfidy and sloth” (p.16). In this regard, he contended that lawyers

are now inclined to practice law as a “trade”, offering their services similar to a commercial exchange, with their prime objective being profit. Brown asserted that the losers in this exchange are the public who receive insufficient legal services. According to Gillers (1992), there is a dramatic increase in civil suits against U.S. lawyers in the past 12 years. Gillers suggests that lawyers are more vulnerable to threats and assaults, although some other professionals such as health care practitioners are more likely to be assaulted (Boyd, 1995). Brown (1990) suggested that the onus to enhance the status of the profession should be on legal practitioners themselves, and that one solution to the problem of declining professionalism is a change in lawyers’ attitudes and perspectives. That is, lawyers must reflect on the authentic nature and purposes of practicing law and realize a common understanding that will bring an honourable profession back into the revered status that it previously held.

The legal profession’s lack of public service is a common public complaint (Samborn, 1993). In fact, in an American Bar Association Public poll conducted in 1993, approximately 73 percent of the respondents thought lawyers should spend more time on community service (Samborn, 1993). Notwithstanding, Freeman (1992) argued that large firms corrupt their members by blinding them to the importance of public service and *pro bono* work. Law firms with influential and/or corporate clients are reorganizing their firms’ structures and goals that entail redefining their concept of professionalism to incorporate a large commercial-entrepreneurial component (Hanlon, 1997). Consequently, any changes in structural and ideological practices may negate lawyers from offering *pro bono* services as it contravenes the capitalist mantra of the firm.

At a Canadian Bar Association meeting in 2004, then Justice Minister Irwin Cotler urged Canadian lawyers to do more *pro bono* work, saying he “wants to see a *pro bono* movement in this country in which complementary legal services become part of the psyche of the legal profession” (Tibbetts, 2004: A3). Cotler confirmed that increased legal fees are making legal services too expensive for the average Canadian and implementing a *pro bono* program may not only mitigate this problem but also re-establish the legal profession as a “calling” rather than a “business”. Cotler’s objective was to create “an army of lawyers in pursuit of the public good” (Tibbetts, 2004: A3). In fact, in a news release in November, 2006, former Ontario Attorney General Michael Bryant

recognized the Province of Ontario's legal members for their commitment in promoting *pro bono* services (Canada NewsWire, 2006). As Bryant stated "*pro bono* work is increasingly becoming a part of many lawyers' everyday working lives . . . and reflect[s] the true spirit of working for the public good" (Canada NewsWire, 2006: 1). Cronk (2005) asserted that central to lawyer professionalism is the duty to assist every individual notwithstanding "income, race, gender, culture, age or disability" and that justice in Canada must encompass justice to all (p. 10). Cronk added that without the legal collective contributing and substantiating a working model on justice for all Canadians, public disdain and disapproval will occur. *Pro bono* work is the touchstone for all lawyers in their professional capacities and responsibilities, and they must recognize their professional onus to provide legal services to those individuals unable to pay for such services (Pensa, 2007).

What is significant about *pro bono* work is the message it is sending to the public. Many citizens view lawyers as manipulative, exploitative and greedy, attributes that reflect poorly on lawyers' reputations (Hengstler, 1993). Increasing public service, particularly voluntary service, is a general initiative that will surely improve public perceptions of the legal profession. To test this assertion, the American Bar Association commissioned a comprehensive survey of public attitudes by way of a nationwide survey of 1,202 adults. When asked what would significantly improve their impressions of lawyers, 43 percent said providing free (*pro bono*) services would enhance their perception of the legal profession (Hengstler, 1993). Such initiatives would add value to the profession's reputation, arguably reducing the chances of victimization. And such an initiative was introduced in the State of Tennessee (Yoder, 2006). The "50/50 Plan", as it is called, provides civil legal assistance to low-income citizens in which lawyers are given the opportunity to pledge \$50.00 per month to a local legal aid program and provide 50 hours per year of *pro bono* service (Yoder, 2006). Members of the 50/50 plan are given special recognition, along with the personal satisfaction of meeting the needs of the community.

In Canada, the Volunteer Lawyers Service (VLS) program in Ontario was created to provide free legal services and support to qualified charitable and non-profit organizations. Volunteer lawyers, through VLS, assist in a multitude of legal services ranging from incorporations to trademark registrations (Pensa,

2007). In addition, VLS offers support to the community businesses and agencies through seminars and online guidelines. Ontario has a pro bono charitable agency which works with large law firms in developing pro bono programs that allow associates to credit 50 hours of pro bono work per annum to their billing target (Pensa, 2007).

Notwithstanding the many *pro bono* initiatives currently being undertaken in Canada and the United States as aforementioned, the increase in *pro se* legal representatives is increasing and has been since the early 1990s (Gray, 2007). Such increase has placed an increasing burden on the courts where self-represented litigants can comprise up to 60 percent (Tibbetts, 2008). Jordan Furlong (2008), editor of the Canadian Bar Magazine *National*, emphasized the “white elephant” in the legal community that legal members are reluctant to address (p. 6), namely first, it is simply too expensive for the average person to retain a lawyer and second, the family law court system is failing, compounded by a decline in lawyers practicing in that sector (Furlong, 2008). Although Legal Aids in Ontario, Alberta, and Manitoba are doing their best to provide assistance, especially in family matters, there are still underfunding and eligibility issues (Cline, 2008). Certainly, in reality, an important question remains – will 50 hours of pro bono work really assist someone in a protracted law suit, especially since the 50 hours are the total amount of hours allotted to an associate over one year? Hardly significant to say the least. As a result of the continual and increasing influx of self-represented individuals, courts are now put in the position of offering self-help guides, checklists and implementing “store-front kiosks” to assist them in their legal pursuits (Tibbetts, 2008: A5).

Many legal scholars claim that the population growth of lawyers and the increase in large law firms has contributed to the decline of professionalism and an increase in competitiveness. In fact, lawyer populations have increased substantially in many countries such as the United States, Canada, England and so on (Abel, 1988; Heinz, Nelson and Laumann, 2001), resulting in a multitude of legal actors, increased regulation issues, an overabundance of authoritative texts, a proliferation of litigious actions, competitiveness, profit obsession, changes in structure and ideologies in laws firms, and alterations in lawyer aspirations (Brown and MacAlister, 2006b; Galanter, 1994).

One contentious issue that has recently surfaced in Canada is the prevalence of limited liability partnerships. The structure of limited liability partnerships (“LLP”) in law firms transforms the traditional relationship not only between the client and law firm, but also among lawyers in the firm (Slayton, 2006). In previous years, the general partnership structure was the mainstay of many, if not most, law firms. Legal partners were in the firm *one and for all* – lawyers protected and augmented each other’s practice, and ideally trust was the foundation upon which a partnership rested. Nevertheless, in January, 2005, the British Columbia Court of Appeal ruled that a partner in a large Vancouver law firm was in breach of fiduciary duties, and he was ordered to repay \$30 million to a former client. Part of this decision involved an order that the law firm (and its partners) must repay any profits incurred by this partner’s dealings, estimated to be in the range of \$9 million. Subsequent to this decision, law firms are now scrambling to change their partnership structure, thus eroding and eliminating the old-style collective edifice (Slayton, 2006).

Accordingly, a LLP (limited liability partnership) shifts risk away from other partners and the law firm to clients and insurers. This transition will compromise the relationship between the client and the law firm. In essence, a partner will now be solely responsible for only his or her legal actions or misdeeds, thus releasing the law firm and other partners from liability in being enjoined in any law suits. This places a tremendous onus on not only professional insurers, but also clients who may be suing for monetary rewards. It substantially reduces the legal recourses an unhappy client may seek in launching lawsuits against a lawyer. In sum, the LLP has the potential of increasing client incertitude in the legal profession.

Provincial law societies in Canada have, pursuant to their statutory mandates, obligations to protect the public interest and to ensure that the public is cosseted from acts of lawyers’ professional misconduct (Graham, 2004; Tanovich, 2005; Woolley, 1996; Woolley, 2004, 2005). One of the more serious trends that has developed since its implementation in the late 1960s is the practice of hourly billing and the unethical possibilities ensuing from its use (Woolley, 2004, 2005). Although there has been significant recognition of unethical billing practices by the American Bar Association and its members, as well as the American public and media, the Canadian Bar Association has failed to acknowledge, and more

importantly discipline, most lawyers who breach billing ethics (Woolley, 2004, 2005). Notwithstanding the onus on law societies as the watchdog of the Canadian legal profession to protect the public and enforce controls on unethical conduct, lawyers engaging in some ethical breaches, in particular anomalous billing practices, are rarely investigated and almost never prosecuted, in comparison to other misconduct (Arnold and Hagan, 1992, 1994; Woolley, 2004, 2005). Although the Canadian public and media are seemingly aware of such ethical breaches, law societies across Canada have failed to recognize, control or discipline, to any substantial degree, fraudulent billing practices (Woolley, 2004). Arnold and Hagan (1992) believe the challenge of earning a living in an increasingly competitive legal arena, insufficient legal knowledge and/or insufficient resources may induce “compensatory misconduct” (p. 772).

Specifically, legal professionals are in the unique position of self-regulating their members, and in most cases investigate only those matters identified by the profession as problematic or unethical (Arnold and Hagan, 1992, 1994; Graham, 2004, Woolley, 2004, 2005). Failure to prosecute lawyers who remit suspect accounts, and continue such practice, lends credence to the view that the self-regulation of lawyers is a one-eyed goliath, seeing only those breaches deemed worthy of prosecution, while relegating other infractions such as unscrupulous billing practices to assessment officers who have no legal authority to impose sanctions. Such a stance places the legal profession in a rather unique position of conflict whereby certain unethical acts may be ignored or side-lined in favour of breaches that only the legal profession, and not the public or other officials, deem worthy of pursuit, prosecution and punishment (Graham, 2004, 2005). This can result in the Canadian public, and in particular lawyers’ clients, being monetarily bilked. Hourly billing can be a form of outright lawyer deceit that consumers of legal services are forced to bear, with recourses being account assessment and/or mediation/arbitration. Rarely are lawyers who remit padded or irregular bills to clients referred to a provincial law society for discipline (Woolley, 2004, 2005). So, two questions stand out – are the Law Societies’ responses so ineffectual that unethical billing practices are not being adequately redressed? To whose benefit are the provincial law societies, statutorily mandated to protect public interests, really self-regulating and controlling their legal profession – the Canadian public or lawyers?

While governments hold the utmost constitutional authority to regulate lawyers, the power to govern in the legal profession is handed over to lawyers themselves. Consequently, lawyers in each province of Canada govern themselves, and that power is vested in the legal profession (Arnold and Hagan, 1992; Graham, 2004). Each provincial law society derives their power from parliamentary acts and is empowered to decide who should be disciplined, what ethical breaches need investigating, and the type and amount of disciplinary response needed (Arnold and Hagan, 1992; Graham, 2004).

Unfortunately for the Canadian bar, professional self-regulatory responses to misconduct and ethical breaches are often criticized for being too indulgent, and in many cases certain behaviours may be considered tangential in nature (Abel, 1989; Arnold and Hagan, 1994; Woolley, 2004, 2005). In fact, like many self-regulatory bodies, the contingents which influence the profession's responses (or lack thereof) to violations of ethical conduct are in most cases relatively unknown. Many professional bodies, and most particularly the legal profession, retain governing factors close to the chest, with little information available to the public or media about decision or rule-making (Arnold and Hagan, 1994). However, the "selective process of prosecution and sanctioning" may not be random – in many cases the tenure of call to the bar, status in the legal community, type of practice and past discretions, along with the socio-economic climate at the time may be all factors that influence regulators in prosecutorial tactics (Arnold and Hagan, 1994: 171). For example, if the country is in a recession (or in times of socio-economic unrest) and moral panics concerning law and disorder prevail, prosecutorial initiatives on professional misconduct may increase.

Arnold and Hagan (1992, 1994) determined that sole practitioners are more vulnerable to prosecution due to their status in the legal community, as opposed to, for example, high-ranking partners in large, prestigious law firms. Often a hierarchical approach in prosecutions is undertaken, certainly in the legal profession which is a highly stratified business. For example, as Arnold and Hagan opined, sole practitioners may be monitored more diligently, while regulators may turn a blind eye to those lawyers considered to have higher status and reputations. Possibly inexperienced lawyers who engage in solo practice may be inclined to bend the rules to attract clients and earn income, leading them to unwittingly

breach ethical boundaries, while the more senior lawyers of the Bar may have already gained the knowledge and wisdom to avoid ethical pitfalls. Antithetically, the more experienced legal practitioner may have the knowledge and wherewithal to bend billing rules and guidelines to avoid detection of misconduct.

In the end, certain patterns that determine reactionary approaches to unethical billing, although evident, may be internally or hierarchically driven within the self-regulation practice and do not derive from public/client pressures or mandates (Arnold and Hagan, 1992, 1994; Rhode, 2000). Rhode (2000) asserted that, quite simply, “on the whole lawyers retain considerable control over their own regulation and the public has had almost no voice in their formulation or enforcement” (p. 145). Former Stanford Law School Dean Bayless Manning has noted that “lawyers are normally splendidly scrupulous about creating safeguards against conflicts of interests. But that sensitivity vanishes when the profession’s own governance structure is at issue” (p. 146). In the long run, according to Rhode (2000), the public interest has too long been neglected in formulating decisions relating to the self-governance of lawyers, with public concern largely ignored. So much of the regulation of lawyers has been historically developed for lawyers by lawyers. Of course, the definitive mandate is to protect the public interest and in many cases the legal profession upholds this primary initiative. Notwithstanding, lawyers who regulate lawyers cannot escape the “economical, psychological and political constraints of their position” (Rhode, 2000: 2). Inherent in human nature is a tendency that individuals will tend to serve their own interests first, as opposed to adopting other contrary schemes that run at odds with their own ideas. Therefore, substantial concerns arise that the self-regulating predispositions of the legal profession are too insular and insidious, with this occupation ignoring or at least overlooking broader social apprehension (Rhode, 2000; Woolley, 2004, 2005). Very rarely do bar leaders acknowledge or perhaps even recognize that self-interest may skew lawyers’ judgments on matters of self-regulation. Further, even when lawyers are acting in their clients’ best interests, lawyers will be inclined to base their decisions on their own preferences with an objective to capitalizing on the usefulness of such endeavours (Graham, 2004). Rhode (2000) goes on to explain that,

No occupational group, however well intentioned, can make unbiased assessments of the public interest on issues that place its own status and income directly at risk. As virtually every expert observes, the greater a

profession's control over its own regulation, the greater the risks of tunnel vision (p. 16).

As expressed earlier, the American Bar Association is aware of the public's discontent, not only with billing irregularities but also with self-regulation. In a 1992 American Bar Association public survey, more than two-thirds of the respondents ranked lawyer discipline as "too slow, too secret, too soft, and too self-regulated" (Rhode, 2000: 158). In Canada, an Ipsos Reid poll conducted in January 2004 showed that public support for the legal profession is down in every area, especially whether clients get good value for their money (Wilhelmson, 2004). This downward trend is disturbing for both Canada and the United States, certainly when it entails the costs involved in lawyers' unethical practices (Graham, 2004). As Graham (2004) explained, costs are not confined merely to the direct victims, but to every member of the public, even those individuals who had no contact with the offending lawyer. The cost in this case is the harm done to the administration of justice which erodes the public's trust in lawyers and the legal system in general. With such risks at stake, the advent of continuing negative publicity, and the possibility of reputational damage for some unethical lawyers, why do lawyers continue to cheat their clients (Schratz, 1998)?

One possible reason that unethical lawyers cheat their clients is that censure by a bar association does not carry significant social stigma, especially when only fines or suspensions are imposed as opposed to criminal penalties. Sanctions handed down by an independent governing body do not carry weight or respect with the public (Macey, 2005). Further, although lawyers have strong incentives to avoid bar sanctions, they have little motivation to solicit a law society to impose stiffer penalties on other lawyers who do breach the rules because this, of course, contravenes their own self-interests so they are disinterested in lobbying for increased penalties (Macey, 2005). In fact, increasing any type of penalty would work against their self-interests, so lawyers are content to work within established law societies' rules and guidelines, trusting regulators to discipline where and when it is necessary. As a result, because shameful and disreputable labels are rarely applied to lawyers who commit minor ethical breaches, many will continue to cheat their clients (e.g., irregular billing practices). Further, they will continue with unethical behaviour because they can, as some behaviour such as exaggerated billing is unsanctioned, and the likelihood of receiving sanction (or even getting caught) is extremely low

(Woolley, 1996, 2004, 2005). Even if a lawyer is sanctioned, the penalties are so nominal that the benefits of exaggerated billing (e.g., increased profits) outweigh the risks (Woolley, 2004). Macey (2005) contended that criminal breaches (offenses under the Canadian *Criminal Code*) often elicit more serious sanctions (and media attention) than professional misconduct, such as misappropriating monies from a trust account. And in many cases, professions will set rules which they do not regularly enforce or routinely ignore (Moorhead, 2004). In the end, the potential for abuse and conflict in self-regulation and the apparent self-serving aspects of its legal members leads to question whether lawyers will truly be vigorous in disciplining fellow members of the bar who are, in the long run, their peers and colleagues (Woolley, 1996, 2004, 2005). Woolley (1996) made clear that,

The law society can thus be understood as arising both from the sense that the lawyer belongs to a special group and from the idea that lawyers and the legal profession are the site for the protection of both individual and community interests. Insofar as this is the case, the institutional structure has the potential to be abused because of insularity and elitism it fosters and represents while simultaneously being a potentially successful means through which lawyers can fulfill the ethical obligations they impose on themselves (p. 99).

Since many criticisms against professional self-regulation have been mounted, what would be alternatives to self-regulation that would increase disciplinary effectiveness, assuage public concerns, and maintain member satisfaction, if such a model exists? Although any reforms to self-regulation are currently hypothetical, do not come with their own set of operational problems, and face nominal chances of replacing self-regulation in the near future, Macey (2005) theorized that an alternative to self-regulation could be to adopt a private contracting model that “treats clients as investors to whom lawyers owe standard fiduciary duties of care, loyalty, good faith and disclosure. These obligations would exist as default rules around which the parties could contract” (p. 2). In this prototype, clients would be responsible for any of their lawyers’ misconduct as the clients would act as their lawyers’ principals. Macey contends that this framework would hopefully eliminate the increasing problems of lawyer misconduct.

Assuming the profession of law has moved to a business approach, with its prime orientation of profit-making, then business members could be sanctioned

similarly to other business owners in each Canadian province. Simon (2003) idealized that each province could licence and regulate lawyers, subject to restrictions that aim to protect the public and more specifically clients. Lawyers would adhere to the same rules and regulations as any other business owners within the province, with each lawyer mandated errors and omission insurance before being licenced to practice law. Take for instance the rendering of a legal bill. Lawyers would be duty-bound to purposely itemize and account for all services for each bill rendered comparable to other similar business that charge for services to the public. But University of British Columbia Law Professor Wesley Pue argued that it would be unrealistic for lawyers to be regulated by the state (Mucalov, 2004), as the independence of the bar, as opposed to other self-regulating professions, is the “bulwark of a free and enlightened society” (Graham, 2004: 170). The importance of the independence of the bar cannot be understated – it is one of the prime reasons that underscore individual rights and freedoms and promotes the sovereignty of lawyers from routine government control (Graham, 2004). In Australia, however, the Queensland government, after reviewing a derisive report on the status of lawyer self-regulation in that province, assumed control over lawyer discipline (Mucalov, 2004), since the report indicated that public complaints had almost doubled from 2001 to the following year. The report also alleged that numerous complaints about lawyers over-billing or conducting unethical actions had not been settled or handled in a satisfactory manner. The report further insisted that the Queensland Law Society was “nothing but a post office that received complaints, forwarded them to the lawyer, and then sent back the lawyer’s response to the complainant” (Mucalov, 2004: 2).

Self-regulation of lawyers in Australia has virtually been eliminated in three states – Queensland, Victoria and Tasmania. Moreover, problems with self-regulation have arisen in England and the United States, with the English government suggesting that all responsibilities for complaints and discipline be removed from the law society. In the State of Victoria, pursuant to ongoing conflicts between the ombudsman and the Law Institute of Victoria, an independent board assumed control of the regulation of lawyers and an independent commissioner was hired to monitor public complaints (Mucalov, 2004). However, none have been as drastic as those initiatives undertaken by the Tasmanian government which entirely removed from its law society the primary

responsibilities of overseeing trust accounts, monitoring complaints, distributing practice certificates, and initiating practice rules. In fact, the Tasmanian government went so far as to formally bring an end to lawyer self-regulation. Notwithstanding the substantial changes taking effect in Australia, Canadian law societies function very differently than those of the Australian states whose dual role is to regulate the profession and to promote its interests, in contrast to Canadian law societies whose primary objective is to protect the public's interest (Mucalov, 2004). Nonetheless, public complaints are similar worldwide, and if Canadian law societies are not protecting the public against irregular billing practices, then alternative measures must be considered.

Another suggestion is the melding of external and self-regulation. For example, external peer regulators could be utilized as a way of monitoring and regulating quality control (Moorhead, 2004). For example, peer reviewers could be retained to assure overbilling is prohibited and to monitor possible overcharging to clients, to provide a developmental role in ethical conduct, and to supervise quality control within external law firms that are contracted to work with, and adhere to strict guidelines of private institutions such as the Insurance Corporation of British Columbia or governmental institutions such as the Legal Services Society (Moorhead, 2004).

Independent regulation may create myriad problems but the ultimate goal is to remove the apparent conflicts that the self-regulatory body faces in protecting the public interest, while internally grappling with its members' goals and aspirations. Law Societies must foster trust, and a consumer market based on trust will go a long way to hopefully regaining confidence once again in the legal profession (Simon, 2003; Moorhead, 2004; Mucalov, 2004; Macey, 2005). What is troubling for self-regulation is that governments around the world are becoming disillusioned with lawyers' self-regulatory practices and their traditional roles as controllers of their profession, and with mounting pressures from concerned citizens, countries everywhere will be scrutinizing alternatives adopted by other regions (Mucalov, 2004).

One of the problems associated with the new business paradigm now assumed to be the common approach amongst lawyers today is how ethics flow from the evolution of the business approach where the crucial goal is profit-making. Schratz (1998) confirmed that,

With much reluctance, many in the legal profession are only now beginning to acknowledge the halcyon days of yesteryear when the legal profession was a profession first and a business (or industry) second, are over . . . as [lawyers] embark into the 21st century, [they] are currently facing a serious management issue of trying to successfully balance the sometimes perceived conflicting demands of the law as a profession and a business (p. 9).

As far back as 1999, Justice Binnie of the Supreme Court of Canada lamented the amount of money that law firms and lawyers earn. In fact, dovetailing from comments made by his former Supreme Court of Canada colleague, Justice Sopinka, he confirmed that “the drive for profits by many Canadian law firms threatens the legal profession and the public” (Tibbetts, 1999: 2). Five years later, former Executive Director James Matkin of the Law Society of British Columbia confirmed that an online survey of 2,600 lawyers revealed that lawyers are overall “happier with the Law Society in every respect and its members are also making more money which certainly puts them in a better mood” (Wilhelmson, 2004: 1). While lawyers may be happier and richer than ever, the same cannot be said about the public. A separate Ipsos Reid survey indicated that public support of the legal profession is spiraling downwards. On a score out of 10, when respondents were asked if they believe lawyers give “good value for money”, the average response was 4.8. The rating for “service to clients” received a typical score of 6.2 out of 10 (Wilhelmson, 2004: 1).

With the practice of law moving to a business approach, lawyers look to billable hours as the litmus test to success and revenue (Graham, 2004; Lerman, 1990, 1999). The business-approach process must factor in cost-benefit analysis – what are the repercussions versus the benefits of exaggerated billing? Do the benefits of additional profits from “padded” accounts outweigh client response if accounts are contested? Most certainly in many, if not most cases, when contested accounts are brought before a Registrar for assessment, the only detrimental aspect is the chance the final rendered amount will be reduced. Disciplinary action against the lawyer is rarely taken (Woolley, 2004, 2005). Further, lawyers, it seems, do not take into consideration any reputational costs, as Friedman (2000) pointed out, “reputation may be the most important method for enforcing agreements in our society, although not the one of most interest to lawyers” (p. 145). Notwithstanding it is the lawyer’s duty to refrain from tarnishing the public image of the legal profession (Professional Conduct

Handbook, Ch. 1), which, if unabated, can eventually lead to erosion of public confidence and the possibility of harm and victimization (Graham, 2004).

There are many reasons why lawyers may pad their accounts. In an hourly fee system, lawyers have an incentive to over-prepare, which can be very costly in many cases (Brown, 2005; Maurer, Thomas & DeBooth, 1999). At the nucleus of a lawyer's function is the fee. It cements the economic relationship between the lawyer and the client, resulting in an influential relationship between the lawyer and the legal system (Maurer et al., 1999). The distinction of the hourly fee is that the lawyer will be paid on an hourly basis based on the amount of work conducted on behalf of the client as measured by time and effort, usually without regard to fixed fee or the amount of risk (Maurer et al., 1999). Billing by the hour can also force clients and their legal counsel to think carefully about strategy and risks, with further consideration given to other legal manoeuvre in pursuit of litigious cases (Richmond, 2000). In the last 20 years, however, the arrival of technological innovations in law firms has increased the pace of law suits, and with lawyers billing on an hourly basis, efficient, tech-savvy lawyers will accomplish tasks in a much faster manner than slow, inefficient lawyers who are unable to manage current technology. In the long run, slow inefficient lawyers will make more money on an hourly basis, with high-tech lawyers finding themselves in a position where they must work twice as hard in one hour to earn the same dollar value (Richmond, 2000). Therefore, the propensity to exaggerate the time spent on a file may increase as larger workload demands are needed to meet the firm's monthly billing requirements, exhausting many lawyers, and subsequently leading to falsifying actual time spent on a case. In fact, current technology allows workload time increments to be reduced, so lawyers may evaluate "technology" time versus "real" time, thus adjusting their time sheets to reflect what the task might have taken if technology were not available.

From a psychological standpoint, with all the years of education that lawyers receive and the thousands of dollars spent on this education, it is difficult to fathom why lawyers, after undertaking an oath of service, would stoop to cheating their clients for profit like a common thief. It is also inconceivable that lawyers may face losing large corporate clients – considered by many large law firms to be the lifeblood of client billing – to the practice of overbilling. What is more astounding is some large corporate organizations have

in-house counsel who monitor monthly accounts rendered by external counsel, while those external counsel, knowing their accounts will be carefully reviewed by a knowledgeable in-house lawyer who is fully acquainted with legal processes, render padded accounts (Schratz, 1998).

The practice of unethical client billing may contribute to a decline of legal professionalism and an increase in public unrest and scepticism (Kovachevich and Waksler, 1991; Re, 1994; Rehnquist, 1987). Prior to 1960, lawyers adopted a unique form of billing clients in which recording time was not utilized as the value for legal services (Woolley, 2005). Consequently, before 1960 and the eventual introduction of time billing, lawyers based their fees on one of five different contingents, none of which employed time as its determinant. Lawyers could agree beforehand with clients about retainers or fees, or they could abide by tariffs set out by the provincial law society, or take a percentage or “value” bill (value of the case and the time and effort required) (Woolley, 2005). However, around the end of the 1960s, a new schema was introduced in lawyers’ practices that based their billings on hourly increments. Legal educators launched this new blueprint, calling it the “key to higher productivity and increased economic return” (Woolley, 2007: 340, citing Legal Education Society of British Columbia). The initiation of the hourly practice, therefore, opened a plethora of opportunities for future billing irregularities (Woolley, 2004, 2005).

Woolley (2004) conducted research on the unethical hourly billing practices by Canadian lawyers. Although the American public, media and academia are increasingly aware of unethical legal billing practices, since statistics have proven that American lawyers substantially overbill their clients, the Canadian legal academy is less cognizant or employs decreased vigilance of such irregularities. Or, it could be speculated, statistics on this issue have not been done, or contrarily, if such research initiatives have been undertaken, then findings have not been released to the public. Lerman (1990) and Ross (1996) conducted studies on overbilling amongst American lawyers. They confirmed that 25 percent of both internal and external counsel believed that at least one-quarter of all work performed by lawyers is motivated by unnecessary work to increase charges to the clients, and 40 percent of outside counsel concede that the opportunity to inflate a bill underpins their work ethic. Similarly, Lerman (1990) interviewed 20 American lawyers who worked in numerous medium to large-sized law firms —

located both locally and internationally. The intent of the research project was to ascertain specific situations where lawyers may be more inclined to deceive clients. The results revealed very interesting and informative data. For the most part, interviewees report most frequently deceiving clients for **economic reasons**. Further, almost all the lawyers interviewed report deceiving clients through billing practices. Such deceptions include overestimating hours because of failure to keep accurate time logs, performing unnecessary work and billing for it, and exaggerating the chances of success to encourage continued litigation and thus income. Moreover, most of the interviewees admit billing two clients for the same work, fabricating billable hours, and billing for work that had not been done in order to meet firm goals for monthly (or year to date) hourly billings.

Although there seems to be public and media outcry on the “level and propriety of American lawyers’ fees”, Canadian law societies and their members continue to act contrary to criticisms (Woolley, 2004: 863). Woolley (2004) refuted the assertion that the regulation of lawyers in Canada is effective and that unethical billing that does happen is soon rectified. She suggested that “the failure to accurately assess whether work is being done to benefit the client, or simply to generate billable hours, is a result of the lawyer privileging [his]/her own interests over those of [the] client” (p. 864). She is concerned that while the American profession may acknowledge the serious ethical breaches of American lawyers, it seems that any Canadian law societies’ concerns originate from the Canadian media and public opinion that are purportedly based on anti-lawyer prejudice and are not founded on any concrete examples of unethical billing practices. To counter these assumptions, Woolley (2004) interviewed a number of senior lawyers across Canada, a majority of whom confirmed that lawyers’ main goals are to conduct work to generate billings rather than embrace the benefits of clients. The interviewees further conceded that hourly billing is totally contrary to the public interest. In Woolley’s (2004) study, one lawyer remarked that hourly billing creates temptation for lawyers to embellish work, while another lawyer confided that a partner in the law firm should have received “a Nobel prize for fiction” (p. 882). Regulation of hourly billing should protect the public from exploitation.

While ethical rules and regulations are outlined in Canadian provinces, provincial law societies do not strictly control the fees that lawyers charge

(Dodek, 2000; MacKenzie, 2006; Woolley, 1996). In a study in the Province of Ontario, Canada, 100 contested solicitor/client lawyer account assessments were selected at random and reviewed for outcomes. It was discovered that while only 22 percent were assessed as billed, another “26 percent were reduced by 10%; 20 percent were reduced by 11% to 20%; 6.4 percent were reduced by 31% to 49%; 11.6 percent were reduced by 51% to 60%; and 7.7 percent were reduced from 61% to 100%” (Gramlow & Linton, 2000: xi). Although Gramlow and Linton undertook this study as research for drafting and finalizing a lawyers’ guide in preparing for taxation hearings, the edifying results indicate a more serious problem of why a whopping 78 percent of lawyers’ bills are reduced (some substantially) on assessment. The bare truth is that although these lawyer’s bills may be reduced and proven to be exaggerated, rarely are the authors of such billing practices disciplined (Woolley, 2004).

Although hourly billing was originally designed to promote fairness and efficiency (Ross, 1998; Woolley, 2005), this practice has turned on its heel and become one of the most contentious methods lawyers employ. In some American cases, for example, padding accounts can be tantamount to fraud (Richmond, 2000). In the case of *Toledo Bar Association v. Batt*, the lawyer padded his bill to the extent that the Court found it equivalent to misappropriation of funds and worthy of disbarment (Richmond, 2000). In the case of *Office of Disciplinary Counsel v. Zingarelli*, the court found that the lawyer’s inadequate and inconsistent explanations of the hours billed and rendered fees premised on dishonesty (Richmond, 2000). Another lawyer, Kathleen Jennings, took into consideration the amount of time spent supervising a junior lawyer, so appropriately in her mind, doubled her fee to augment the fees lost on such supervision. Ms. Jennings was subsequently disbarred (Richmond, 2000).

Exaggerating billing practices can take many forms. Lawyers can double-bill for their work. For example, lawyers will combine travelling time with preparation time, thus accounting for twice the amount of work charged. For example, lawyers may bill the client for 2 hours flying to another region, but during those two hours on the plane will prepare the case. However, on the account, lawyers will charge for two hours of travel, and then another two hours of preparation, thus amounting to a total of four hours as opposed to two (Richmond, 2000). Another contentious issue is the minimum billing increment. Many law firms will

enforce a minimum on which lawyers, paralegals or other staff are allowed to record on their daily timesheet. For example, if the minimum billing increment is six minutes (.1), then a telephone call that takes two or three minutes will be billed at .1 or six minutes. Thus, 2 or 3 minute phone calls will be billed to the client as 18 minutes of time spent. Further, many lawyers will confer with other lawyers or junior associates on a case, all of whom will usually bill the client for the time spent in the conference. If a client's lawyer, who is billing at \$250.00 an hour confers with a senior, more experienced partner who is charging \$400.00 per hour, both lawyers will bill for their time spent on the file. Other lawyers may make up lost, missed or forgotten time with vague entries on their time sheets, such as "research" or "attendance at library". Many times these entries may be exaggerated or used for "make-up" hours. Lawyers may duplicate efforts, for example, when paralegals prepare and bill their time for Chambers applications or other court documents, so lawyers may bill for the same time even though they had little or no involvement in such preparation. Further, many senior lawyers will contract junior associates to prepare pleadings or letters, and upon reviewing the final draft, will also bill for preparation time, thus duplicating the efforts. Lastly, when new lawyers are assigned to files, without the client's authorization or permission, or when lawyers leave a firm and the files are subsequently assigned to other lawyers in the office, the new lawyers will bill for time spent reviewing and familiarizing themselves with the new files (Richmond, 2000).

In many cases, knowledge of the law can increase a lawyer's ability to manipulate legal definitions in such a manner that these activities are not defined as illegal or unethical (Levin-Rozalis, 2007) and can be tweaked to resemble some semblance of conformity. Some billing practices, which may appear at the outset to be duplicitous, may not be considered by the courts to have any fraudulent intent. In the case of *Nathanson, Schachter & Thompson v. Inmet Mining Corp.*² the Vancouver, British Columbia law firm of Nathanson, Schachter & Thompson ("NST") appealed a decision on a billing practice to which The Honourable Mr. Justice Burnyeat referred to as a "success fee". In many law firms, lawyers who successfully win or settle a case for a client will take an additional amount, over and above the hourly rates charged for such services, as a success fee for

² 2007 BCSC 724 (CanLII.org)

winning a case. In such circumstances, a success fee may range from a few hundred dollars to thousands. In this case, NST charged a success fee of \$6.62 million to the client (Baines, 2007). The client took the matter to taxation where Registrar Blok reduced the success fee to \$1.88 million. NST appealed the decision but it was upheld by the Supreme Court of British Columbia. At the taxation hearing,³ NST called two well-known Vancouver counsel, Barry Kirkham, Q.C. and Jack Giles, Q.C., to give opinion evidence on the reasonableness of success fees. In NST's defence, Mr. Giles opined that,

In the 44 years I have practised at the Bar, I have been involved in many mega cases. They are properly called practice killers. Other briefs have to be refused, as was the case with you, and for months at a time the senior members of your firm are simply unavailable to meet the requirements of your regular clientele. When the case is over it takes time to recover (para. 138).

In many cases, there is a thin line between "real" work and "busy" work, blinding lawyers to the difference since many clients, due to inexperience and unawareness, will pay the same amount for both (Woolley, 2004). While assessment officers have the power to reduce a lawyer's bill, they do not have an authority to impose any sanctions on the offending lawyers. However, in Alberta, assessment cases are referred to the law society when an assessment officer reduces an account by more than 50 percent (Woolley, 2004). Further, in the Professional Conduct Handbook (Ch. 9), it states at para. 1 that "lawyers must not charge an excessive fee" or with regards to hidden fees, a lawyer "must fully disclose, to the client or to any other person who is paying part or all of the lawyer's fee, any fee that is being charged or accepted" (para. 7). Further, three provincial law societies have introduced fee mediation, including British Columbia, Manitoba and Québec.

In other Canadian cases, such as *Nova Scotia Barristers' Society v. Ayres*⁴, the lawyer, Ramey Ayre, was accused of using "excessive and unreasonable" fees (among other formal complaints) by failing to keep account of her time spent on files, charging clients for her secretary's time at the lawyer's hourly rate, and charging excessive fees without adherence to the principles set out in the

³ 2006 BCSC 1611 (CanLII.org)

⁴ 1998 NSBS 1 (CanLII.org)

Professional Conduct Handbook, In particular, she continually performed services and charged client fees for services even after the client had retained other counsel. In the case of *Re: Brock Glover Lee*⁵, The Law Society of Manitoba charged Mr. Lee, Q.C. with professional misconduct when they found that Mr. Lee has rendered a legal opinion devoid of any legal substance or references. Mr. Lee's fee was reduced from \$2,200 to \$350, and he was issued a reprimand and ordered to pay prosecutorial costs. In the case of *Re: David John Martin*⁶, the Law Society of British Columbia accused Mr. Martin, a senior criminal lawyer, of professional misconduct for, among other matters, rendering fraudulent accounts that reflected work done on behalf of his client's adult children for the purposes of obtaining public funding in the Air India trial. And in *Law Society of Upper Canada v. Sussman*,⁷ the respondent was disbarred for replying to a nominal small claims suit (\$1,600) with a \$5,000,000 countersuit, and then charged his clients \$50,000 in legal fees which were shown to be totally unworthy.

The pressure of young lawyers to attain the maximum amount of yearly billable hours is tremendous. This can create an ethical conundrum when the greater pressure of attaining the requisite amount of billable hours overshadows client service, thus leading to moral dilemmas and ethical breaches. If young lawyers are expected to bill enormous number of hours per year, there will likely be temptations to exaggerate billable hours (Brown and MacAlister, 2006b). Ultimately, the person who suffers the outcome of embellished billing is the client. Kovachevich and Waksler (1991) argue that there are divergent interests in the legal profession, namely the client's interest is in obtaining a timely and positive result, while the lawyer's interest and ultimate goal is in generating the highest possible billable fee. This can easily result in a lawyer prolonging a matter unnecessarily to generate more fees, creating a conflict between the parties' interests. Thus, a lawyer's professional calling may sink to more of a draconian approach – a ruthless and competitive métier – marked by economic pressures and greed. James Miller, former president of the Florida Bar, claimed:

⁵ [1998] L.S.D.D. No. 22

⁶ 2005 LSBC 16 (CanLII.org)

⁷ [1997] L.S.D.D. No. 39

Lawyers all over the country are chained to clocks. This means they are not working in their communities, churches, synagogues, civic organizations, and so forth. There is not time for them to make the contributions to society other than to 'grind it out' for the almighty dollar. The profession is self-destructing. (as cited in Kovachevich and Waksler, 1991: 426).

There are few other matters that can irritate a customer or client more than being overcharged for a service, a situation worsened by the fact a client rarely has control over the lawyer on the allocation of time spent on legal actions (Kovachevich and Waksler, 1991). If the legal profession has indeed espoused the business concept as many of the aforementioned legal scholars profess, then the onus is on legal practitioners to address client disputes over billing if they should arise. Similar to any good business professional, if customers or clients are not satisfied with the services rendered, then reconciliation should be accorded to the client.

Certainly due to the contentious nature of legal billing methodology, it may be appropriate and timely for bar associations and law societies to begin ruminating on other *modus operandi*. If this form of legal billing is creating lawyer/client animus, it may be one reform that can be undertaken to bolster lawyers' reputations. As Gerhart (1960) so profoundly announced almost fifty years ago,

It should also be constantly remembered that a lawyer is a professional man, not merely a hired hand working at an hourly rate. When time accounting is carried on too ostentatiously in fee fixing, *it may merely irritate the client*. Legal work of the highest order required meditation, thought and analysis. In that sense a lawyer may be working on his client's case at any time of the day or night . . . Time records are therefore valuable but not conclusive (as cited in Kovachevich and Waksler, 1991, at p. 430) [emphasis added].

The billable hour as it stands now may be one of the primary causes for the public's declining trust in lawyers. If clients suppose their lawyers may be exaggerating billable hours, it is certain such dubious practices would raise clients' ire. It is important to remember that clients are the mainstay of lawyers' businesses and to deceive them could prove disastrous for the legal profession.

PUBLIC OPINION POLL

This third segment of theoretical assumptions is a study which arose from comments made by numerous lawyers in the 2005 B.C. study that the public is to blame for lawyer victimization, arising out of client frustration, ignorance of the legal system, and unrealistic expectations, among others. Therefore, in order to offer relevant theoretical perspectives on this phenomenon, it is important that public opinion be embedded into this analysis to gauge the general disposition towards the legal profession to substantiate or refute the supposition that the public thinks less highly of lawyers, thus possibly leading to aggressive actions and lack of respect for the legal profession. Many of the comments made in lawyer interviews subsequent to this public opinion poll substantiate the assertion that the public generally views lawyers negatively, and lawyers' reputations are suffering as a result. Some of the variables in this survey were partially modeled on three national sample surveys conducted by The National Law Journal and the American Bar Association (see Samborn, 1993).

Methodology

Participants

After obtaining ethics approval in 2006 from Simon Fraser University (Ethics Approval #37362), I placed an advertisement (4.542 x 4 inches) in the *Vancouver Sun* newspaper on Saturday, March 25, 2006 asking the public to link to an online survey on lawyers and the legal profession (see Appendix I). Of the 185 individuals who accessed and completed the online survey, only 182 subjects who completed assessment were included in the final analysis due to sampling errors (hereinafter referred to as "the first study").

I off-set the limitations inherent in the first study with a second poll of an homogenous group of university students who this researcher assumed, due to their age, would have had very little contact with lawyers in a legal capacity (hereinafter called the "second study"). All of the subjects who participated in this study were included in the final analysis ($n=480$).

Measurements

The same survey was used in both studies and included categorical-response items, rating scales and open-ended questions. The survey consisted of 17 questions as follows: (Appendix I):

Seven independent variables:

- Gender
- Age
- Education
- Marital Status
- Occupation
- Race
- Annual Household income for 2005

Nine dependent variables including,

- Consult with a lawyer in the last five years;
- Overall satisfaction with the legal services received;
- How much trust and confidence in lawyers and the legal profession;
- Overall impression of Canadian lawyers;
- From where is the overall impression drawn;
- Combination of sources;
- The most positive aspect of lawyers;
- The most negative aspect of lawyers;
- Personal level of knowledge of Canadian laws, including the *Charter of Rights and Freedoms*, the justice/court system and lawyers' roles in the justice/court system.

A thematic approach was adopted to review the participants' responses to the open-ended questions in order to first determine the major themes (or topics) they chose to talk about, and second, to examine any sub-themes that surfaced within each major theme. In conducting this analysis, I looked at the frequency of responses (Miles & Huberman, 1994), and used a process of review and re-review using a backward and forward motion to identify predominant themes (and sub-themes) as well as appropriate coding descriptors (McMillan & Schumacher, 1997). After careful analysis, numerous themes emerged.

Procedure

Responses to the first study were located on a secure and confidential website used by researchers and faculty at Simon Fraser University. The website was located at: <https://my.sfu.ca/cgi-bin/WebObjects/WebSurvey.woa>. For the second study, this researcher attended university criminology classrooms to discuss the research project, answer any questions and explain the intent of the survey before administering the survey. The time allotted for each classroom was 15 minutes. The collected data were entered into the Statistical Package for the Social Sciences (SPSS) and broken down by questions and entered as independent or dependent variables.

Results*Demographics*

The sample in the first study comprised 86 male (47.3%) and 96 female (52.7%) subjects. Table 2.1 sets out the breakdown of the subjects' ages. As indicated, there were fewer individuals between the ages of 19 and 24 compared to those aged 35 to 64. The largest range was 35 to 49 years (32.4%).

Table 2.1: Age n=182

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	19 – 24	21	11.5	11.5	11.5
	25 – 34	35	19.2	19.2	30.8
	35 – 49	59	32.4	32.4	63.2
	50 – 64	53	29.1	29.1	92.3
	65 years and older	14	7.7	7.7	100.0
	Total	182	100.0	100.0	

Eighty-one subjects were married (44.5%), 54 subjects were single (29.7%), 21 lived in a common-law relationship (11.5%), 20 subjects were divorced (11.0%), and only 6 subjects were widowed (3.3%). Most of the respondents were Caucasian (83%), with Chinese comprising 2.2 percent and South Asian at 2.7 percent, and the remaining respondents spread across other categories of racial groups. Ninety respondents were university graduates (49.5%), 63 had completed some university courses (34.6%), 25 had graduated from high school

(13.7%) and 4 had dropped out of high school (2.2%). Table 2.2 sets out the occupations that the respondents held at the time of completing the survey, with mid-level to high-level professionals comprising 45 percent of the sample.

Table 2.2: Occupation $n=182$

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Skilled/semi-skilled labourer	6	3.3	3.3	3.3
	Tradesperson	6	3.3	3.3	6.6
	Mid-level professional	63	34.6	34.6	41.2
	High-level professional	19	10.4	10.4	51.6
	Executive	6	3.3	3.3	54.9
	Salesperson	7	3.8	3.8	58.8
	White-collar worker	12	6.6	6.6	65.4
	Housewife/ Househusband	3	1.6	1.6	67.0
	Retiree	26	14.3	14.3	81.3
	Student	17	9.3	9.3	90.7
	Unemployed	4	2.2	2.2	92.9
	Other	13	7.1	7.1	100.0
	Total	182	100.0	100.0	

With regard to household income for 2005, 65 respondents (35.7%) reported income over \$75,000 per annum; 47 respondents (25.8%) earned \$50,000–74,999; 37 respondents (20.3%) reported earnings of \$20,000 to 39,999; 16 respondents (8.8%) earned \$40,000 to 49,999; and 17 respondents (9.3%) reported earnings of less than \$20,000 per annum.

The sample in the second study comprised 200 male (41.7%) and 280 female (58.3%) subjects. The age of the respondents was skewed in the younger direction – 78.5 percent were between the ages of 19 and 24 years and 13.8 percent were 18 years and under. Six percent were between the ages of 25 and 34 and the remainder were older than 34. As expected, an overwhelming number of the student sample was single (90.8%). The remaining 4 percent lived in a common law relationship, another 2.9 percent were officially married, 1.9 percent were divorced, and two individuals (.4%) were widowed. Racial diversity was also

more evident in the second study, with Chinese respondents comprising 38.8 percent of the sample and Caucasians making up 26.3 percent (see Table 2.3).

Table 2.3: Race $n=480$

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Chinese	186	38.8	38.8	38.8
	South Asian	39	8.1	8.1	46.9
	Caucasian	126	26.3	26.3	73.1
	Arab/West Asian	12	2.5	2.5	75.6
	South Asian	25	5.2	5.2	80.8
	Japanese	3	.6	.6	81.5
	Polynesian	1	.2	.2	81.7
	West Indian	4	.8	.8	82.5
	Black	2	.4	.4	82.9
	Filipino	3	.6	.6	83.5
	Latin American	5	1.0	1.0	84.6
	Korean	20	4.2	4.2	88.8
	Fijian	5	1.0	1.0	89.8
	Guyanese	3	.6	.6	90.4
	Aboriginal	2	.4	.4	90.8
	Other	44	9.2	9.2	100.0
	Total	480	100.0	100.0	

Consulted a lawyer/Trust and Confidence

Seventy-two percent of the respondents in the first study had sought or consulted a lawyer in the last five years (74%-women, 70%-men). Of those individuals who had sought legal counsel, 25 percent reported being completely satisfied with the legal services he/she had received, 28 percent were somewhat satisfied, 11 percent were somewhat dissatisfied, and 8 percent were completely dissatisfied. Contrary to the findings from the first study, only 21.5 percent of respondents in the second study had consulted or sought advice from legal counsel (22.5%-Male, 20.7%-Female). Of those respondents, 6.7 percent was completely satisfied with the outcome; 10.4 percent was somewhat satisfied, 3.5 percent was somewhat dissatisfied and 1.9 percent was completely dissatisfied.

The respondents in both studies were asked how much trust and confidence they have in lawyers and the legal profession in a ratings scale from “a great deal”, “some”, “a little” to “none at all”. As expected and concurrent with literature, respondents in the first study, of whom 72 percent had sought legal counsel in the last five years, had a lower opinion of the legal profession. The findings confirm that 30.8 percent of the public had little or no trust and confidence in lawyers and the legal profession, but only 15.4 percent of the students from the second study felt the same way (see Table 2.4, Table 2.5). However, given the larger percentage of students in the second study who had not sought advice or consulted with a lawyer in the five years prior to this study, it is interesting to note that 60.4 percent had only some trust and confidence in lawyers indicating perhaps a general societal perception rather than actual knowledge was guiding their responses in this question.

Table 2.4: Trust/Confidence $n=182$ (First Study)

		Frequency	Percent	Valid Percent
Valid	A great deal	44	24.2	24.2
	Some	82	45.1	45.1
	A little	34	18.7	18.7
	None at all	22	12.1	12.1
	Total	182	100.0	100.0

Table 2.5: Trust/Confidence $n=479$ (Second Study)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	A great deal	115	24.0	24.0	24.0
	Some	290	60.4	60.5	84.6
	A little	58	12.1	12.1	96.7
	None at all	16	3.3	3.3	100.0
	Total	479	99.8	100.0	
Missing	System	1	.2		
	Total	480	100.0		

Overall Impression of Lawyers/Source

Respondents in both studies were asked their overall impression of lawyers and in a sequential question were asked the source(s) for their knowledge. For example, if the public's primary impression of lawyers is from media sources or entertainment shows such as television, movies or novels, then a supposition can be made that popular fiction or misleading news stories may be influencing the public about lawyers rather than personal experiences. Approximately 50 percent of the respondents from the first study reported their impressions were excellent (4.9%) to good (44%). Another 24 percent of respondents reported a fair impression, while the remaining respondents reported a poor (15.9%) to dismal (11%) review. Reviewing the sources for these assertions, it would be expected that respondents from the first study, approximately three-quarters of whom had consulted a lawyer in the five years prior to the study, would draw past or current legal experiences to formulate impressions. The data findings substantiate this assumption, with 48.5 percent confirming legal experiences as the only source, and another 24.7 percent gleaning impressions from a combination of sources (primarily legal experiences, news accounts, and authoritative texts). Another nine percent of respondents from the first study framed their impressions of lawyers from news accounts and four percent from authoritative texts. Only 2.7 percent of respondents reported obtaining their information, and thus impressions, from fictional accounts (entertainment venues).

In the second study, findings were skewed in an upward direction, such that 93.4 percent of respondents reported a fair (41.5%) to excellent (5.2%) impression. Slightly more individuals from the second study (46.7%) reported their impression as good compared to 44 percent from the first study. Finally, 5.2 percent of students from the second study reported a poor impression, with the remaining 1.5 percent admitting a dismal outlook of lawyers.

The results indicate that only 21.5 percent of the student poll as opposed to 72 percent of the public poll had previously consulted a lawyer in the previous five years. Therefore, it can be hypothesized that students in the second study may obtain their overall impressions of lawyers from other fictional sources such as television or movies, or since this sample population is a university cohort, also gather information from academic materials and lectures. Findings indicate that 20 percent did frame their impressions from entertainment sources, but a

further 41.5 percent reported sources of legal experiences, authoritative texts and news accounts (11.7%, 11.7%, and 18.1% respectively). Lastly, 30.5 percent of respondents reported a combination of sources which differ slightly from the first study – authoritative texts, news accounts and entertainment were the primarily sources.

Positive Aspect of Lawyers

The survey asked respondents to choose one of four phrases which best represents their opinion of the most positive aspect of the legal profession (Table 2.6 and Table 2.7). The findings indicate that 34 percent of respondents from the first study and 11.7 percent from the second study do not consider any of the positive descriptors relevant. These findings may indicate that the survey did not capture a specific positive aspect, or alternatively, respondents did not consider positive aspects apply to the legal profession. Nonetheless, respondents in both studies indicated that “lawyers protect citizens’ rights” is one of the most positive aspects of the profession, with the next most popular being “putting clients’ interests first”. The least popular positive aspect from both studies is “lawyers’ roles are important in affecting social change”.

Table 2.6: Positive Aspect $n=182$ (first study)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Uphold and protect the Canadian Justice system	25	13.7	13.7	13.7
	Protect citizens’ rights	40	22.0	22.0	35.7
	Lawyers’ roles are important in affecting social change	20	11.0	11.0	46.7
	Lawyers put clients’ interests first	35	19.2	19.2	65.9
	None of the above	62	34.1	34.1	100.0
	Total	182	100.0	100.0	

Table 2.7: Positive Aspect $n=480$ (second study)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Uphold and protect the Canadian Justice system	67	14.0	14.0	14.0
	Protect citizens' rights	174	36.3	36.3	50.2
	Lawyers' roles are important in affecting social change	50	10.4	10.4	60.6
	Lawyers put clients' interests first	133	27.7	27.7	88.3
	None of the above	56	11.7	11.7	100.0
	Total	480	100.0	100.0	

Negative Aspect of Lawyers

Approximately 43 percent of the first study versus 38 percent of the second study (see Table 2.8 and Table 2.9) felt the most negative aspect of lawyers is that they manipulate the legal system without regard for right or wrong. This may stem from the general mistrust for lawyers, especially criminal defence attorneys who are ethically obligated to defend a client to their utmost ability and put the prosecution to the reasonable doubt test. In some cases, when an accused is exonerated because of his or her lawyer's legal skills and courtroom manoeuvres, the public may actually blame the lawyer for defending such individuals (Horner, 2007). Laying the blame on lawyers instead of the accused may heighten the public's disrespect for the profession.

Table 2.8: Negative Aspect $n=182$ (first study)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Lawyers are too interested in money	45	24.7	24.7	24.7
	Lawyers file too many unnecessary lawsuits	25	13.7	13.7	38.5
	Manipulate legal system without regard for right or wrong	79	43.4	43.4	81.9
	Too interested in representing corporations, not people	8	4.4	4.4	86.3
	None of the above	25	13.7	13.7	100.0
	Total	182	100.0	100.0	

Table 2.9: Negative Aspect n=480 (second study)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Lawyers are too interested in money	170	35.4	35.4	35.4
	Lawyers file too many unnecessary lawsuits	33	6.9	6.9	42.3
	Manipulate legal system without regard for right or wrong	181	37.7	37.7	80.0
	Too interested in representing corporations, not people	50	10.4	10.4	90.4
	None of the above	46	9.6	9.6	100.0
	Total	480	100.0	100.0	

Respondents in both studies also felt another negative aspect is lawyers' interest in money. Approximately 25 percent from the first study and 35 percent from the second study felt that lawyers are simply too greedy. Again, this may be indicative of those individuals who did seek legal counsel and encountered increasing blockades to the average person's access to justice. Many lawyers are too expensive for an average income-earner to retain, as evidenced by the increasing numbers of *pro se* litigants in our justice system. Many lawyers charge well over \$500.00 an hour, an extravagant sum to a person whose annual income is lower than average (Horner, 2007).

The final question determined the level of legal knowledge of the respondents, such as their degree of personal comprehension of the *Charter of Rights and Freedoms*, justice/court system, and lawyers' roles in the justice/court system. Respondents were asked to self-report on a scale of one to five, with five being extremely knowledgeable (100%), four being very knowledgeable (75%), three having some knowledge (50%), two having little knowledge (25%) or one having no knowledge at all (0%). Of course the limitation with this particular question is how does an individual really know her or his level of knowledge unless being tested on the topic and receiving feedback. However, this researcher was well aware of this limitation when framing the question, but the query needed to be included on the survey nonetheless in order to bring the respondents' awareness of the legal system, court system, and lawyers' /judges' roles in society into

context. Given that almost 50 percent in the first study had a university degree, and all of the respondents in the second study had some university education, it would be expected that many of the respondents would report a higher level of legal knowledge. Interestingly, 45 percent of the respondents in the first study self-reported themselves as very to extremely knowledgeable whereas only 34 percent from the second study self-reported the same knowledge levels. Since more respondents in the first study than the second study were older and had consulted lawyers in the last five years, the basis for enhanced legal knowledge could possibly arise from life and past legal experiences. The percentage of respondents in the first and second studies who reported some knowledge was similar (40% and 44% respectively), as well as those individuals who reported no knowledge whatsoever (3.3% and 3.0% respectively). (First Study: $n=182$; $M=3.4$; $SD=.967$) (Second Study: $n=480$; $M=3.11$; $SD=.856$).

Comments and Suggestions

The last question on the survey was open-ended, asking participants for their comments and suggestions on what lawyers can do to avoid threats and abuse against them in the future (e.g., changes in behaviour, strategies, law/policy reforms, and so on). This question allowed respondents a “voice”, giving them an opportunity to write in their own words rather than responding to closed-ended questions which restrict answers (Barron, 2000; Cook-Sather, 2002). Further, as Barron (2000) and Palys (2003) observed, giving the respondents a chance to express their views and suggestions adds another important dimension to any research project. As a result, these types of questions can enrich the project and provide invaluable data not normally obtained in multiple-choice or check-list options.

A thematic approach was adopted to review and analyze the participants' responses in order to determine the major themes or topics and then to examine any sub-themes that were subsumed in the main themes. Frequency of responses were examined (Miles & Huberman, 1994) and used a process of review and re-review using a backward and forward motion to identify predominant themes and sub-themes, together with ascribing appropriate coding descriptors (McMillan & Schumacher, 1997). Pursuant to this analysis, seven major themes emerged as follows:

Lawyers' Behaviour
Education
Law and Policy Reforms
Fees
Alternative Dispute Resolution
Pro Bono Initiatives/ Legal Aid, and
Power Imbalance.

Once these themes were identified, each theme was examined to disclose sub-themes or ideas/ opinions that were dominant within each of them.⁸ Further, most of the comments made in this section were from the first study; those very few students in the second study who answered this question reluctantly admitted that they had no ideas or suggestions in this regard. Thus, responses in this section are only from the first study.

Respondents are coded according to gender, age range and education. The codes are as follows:

M=male; F=female
Age range (e.g., 35-49)
(UG)=university graduate, (U)=some university, (HS)=high school graduate,
(H)=some high school

Accordingly, M(50-64)(UG) means a man who is between the ages of 50 and 64 and is a university graduate. In total, 128 respondents contributed to this section, but eight were discarded because of disjointed or irrelevant comments not pertinent to the topic, leaving 120 credible responses.

Lawyers' Behaviour

Approximately fifty percent who responded to this open-ended question considered lawyers to be the problem in attracting violence and threats, and that behaviour, mannerisms, and lawyer-client interactions (or lack thereof) were some of the main causes behind lawyer victimization. For example, F(65+)(H) clarified that it is a matter of "physician heal yourself – lawyers should start wondering why there (sic) are receiving this abuse and what they can do to reform", or as M(65+)(HG) confirmed, "lawyers are the cause of their own misfortune". Further, F(35-49)(UG) upheld the idea of reforming lawyers' behaviours, describing that, "victims of workplace violence, regardless of profession, have behaved in ways

⁸ In conveying these findings, the respondents' own words, grammar and spelling are used, so that their own voices come forth.

that unwittingly exacerbated already volatile situations. Education of professionals about behaviour or words that are unnecessarily inflammatory may be useful in preventing inappropriate responses from the general public”.

Approximately 25 percent of these respondents alleged lawyers are dishonest, especially with regard to fees and legal outcomes, a perceived characteristic that may in the long term engender distrust and aggression. Certainly it is possible that some respondents may have misunderstood or ignored what was promised by their lawyer, but nonetheless asserted that a lawyer’s actions should be forthright and honest. For example, M(50-64)(UG) claimed that lawyers should “treat clients honestly”; F(50-64)(U) suggested, “demonstrate more empathy – less talk and more action”, and M(65+)(UG) argued, “avoid blatant lies and threats – unfortunately too commonly justified as furthering a client’s and therefore his own interest”. Many respondents mentioned “integrity” and the perceived notion that lawyers seem to lack that trait. For example, M(50-64)(UG) clearly explained that:

Follow the general rules of any company that competes in a free marketplace with an offer of services – clear pricing, clear definition of services, clear definition of success, payment only if delivery of services has occurred and/or if success has been obtained, free competition with respect to prices and terms, respect for the client, elimination of elitism and contempt in the way clients are treated, naming a third party as ombudsman for any law firm so that clients may complain about lack of real service (“hollow” services) and high fees/costs – just to mention a few of the very necessary actions lawyers must take or must be forced to take to bring this profession in line with the ethical and professional requirements of other professions.

F(25-34)(UG) explained that lawyers need to “act ethically and be as honest and straightforward with people as possible”, actions that were repeatedly mentioned by others. For example, M(50-64)(U) posited that lawyers should put “‘nobility’ and ‘doing the right thing’ of practicing law back in the profession” or as M(50-64)(UG) argued “if you are ‘up front’ during your initial interview with a client, you will engender trust. Your word must be your bond”. F(35-49)(U) affirmed “be clear with clients and the public the actual cost in time in money of any involvement with the legal system”. M(50-64)(UG) offered this suggestion: “improve their competence, improve their attitudes, improve their skills, but generally [they] lack honesty and integrity”. One respondent, M(25-34)(UG)

wrote about a hypothetical response to a particularly unsavoury encounter with a lawyer: “lawyers should not be so money hungry and manipulative, violence against lawyers was constantly going through my head while dealing with a particular dishonest rich fat lawyer”. F(35-49)(UG) considered lawyers should be “more understanding of the client’s personal experiences, [should] not talk down to clients, be more cognizant of the fact that not all clients are stupid or deserve less respect than the lawyers feel they themselves deserve” or as M(35-49)(UG) opined, “essentially they need to treat clients as people, lawyers need to become more humane”. M(50-64)(UG) expanded on this topic,

Be honest, do not cheat, do not lie, do not take unfair advantage of client, do not charge excessive amounts of money for services (e.g., asking \$800 for a service that can be done via Internet for free). Do not make an impression that financial gains, not good service are the only motive, treat clients with respect and many more aspects (too many to list).

Education

Approximately 25 individuals considered education to be a primarily factor in preventing potential aggression. Certainly one of the points made by several participants was the confusion the public had about American and Canadian laws, and certainly promoting a “public education campaign to differentiate Canadian from U.S. systems, especially the lawyers’ roles (F(35-49)(UG). One respondent who was a lawyer for 13½ years explained that:

Education of the public of the lawyers’ role – too many people operate under stereotypes and misconceptions based upon history and the media. Television and movies are full of fictional stories of lawyers and more often than not the portrayals are incorrect and inaccurate giving lawyers society a negative view of the legal profession. Also, so much of the media is US based and the system and practice of law in the USA is different than in Canada. As with physicians, there has been for decades a mystique as to what these professions actually do, how hard they work, and truly what the average lawyer is paid. Mass education campaigns to dispel the myths surrounding the practice and the perceived affluence of lawyers is the first and only place to start F(35-49)(UG).

Along with education schemes is the need for dispelling the myth that all lawyers are bad. M(50-64)(U) claimed that “some public recognition of the good ones and public education may go a long way” to accomplish this goal. He went on to anecdotally compare lawyers to plumbers, saying “there are many good plumbers and a few bad ones also, same scenario!” F(25-34)(UG) also felt that it

is important to “educate the public on their roles in the system putting positive spins on media representation rather than just the negative”. Specifically, many participants believe that education would go a long way to deploy erroneous ideas about lawyers and the justice system, as F(35-49)(U) claimed, “people on the street will likely always be paranoid about lawyers as they are about other specialists (mechanics, etc.) and it’s based on ignorance/myth”. Further, education of lawyers about workplace violence is beneficial such as “education regarding diffusing volatile situations, interviewing skills (specifically ways in which to avoid letting the situation get out of hand), perhaps a personal defence course” M(25-34)(UG). Lastly, M(50-64)(UG) considered education of lawyers at the law school level, perhaps introducing courses on interviewing techniques or empathy training that “might deter abuse from the beginning of their training”.

Law and Policy Reforms

Sixteen respondents expressed the need for reforms in policy and overhauls of the Canadian legal system, while others refuted these ideas and believed that lawyers must take more responsibility for their actions. The themes of legal reformation ranged from profound to ludicrous, for example, preventing the “Canadian legal system [from] sinking to the level of the U.S. system of sue everyone for everything” (M,65+, U) to “stop throwing the Charter of Rights and Freedoms in your attempt to get someone off who clearly deserves to go to prison” (F, 25-34, UG). Notwithstanding, many of the respondents expressed the need for change in order for trust and confidence to build and be sustained in the legal community. F(50-64)(UG) believed the “legal system is prohibitively expensive and unwieldy for the average citizen, making obtaining justice unlikely. One of the reasons . . . that lawyers receive abuse is because the system is hopelessly flawed”. In fact, the expense of and ability to retain legal counsel is difficult in today’s legal market as evidenced by the increasing number of *pro se* litigants in the court system (Gray, 2007; Tibbetts, 2008). Further, the dissention of lawyers by members of the public can arise from the sense or reality of power imbalances that may occur in legal interactions. The sense of “powerlessness” was expressed by F(50-64)(UG) who concluded the solution is to “reduce the complexity of the system so that people may represent themselves. Some people feel powerless without having legal knowledge and have to trust someone (a

lawyer) to solve or help with a problem that they feel powerless to solve themselves". Along these lines, F(25-34)(U) claimed that

for the public to build trust in lawyers in general, there needs to be a shift in Canadian law considered (clients must have the right to consultation and referrals where they are listened to respectfully) regardless of ability to pay. Next, lawyers must act in a considerate manner to their client and be consistent. Particularly, empty promises do much to undermine a client's trust in their lawyer (e.g., I'll work on this all weekend and get back to you on Monday – then the client does not hear from them until the following Friday)

Many respondents believed that lawyers receive abuse because the public is simply frustrated and exasperated with the legal system (F, 50-64, UG) and that lawyer abuse stems from myriad factors, some of which lawyers can and cannot control (M, 50-64, UG). Moreover, M(35-49)(UG) thought there should be an on-going certification process for lawyers. He clarified that his former landlord was a lawyer and that he would not have "trusted the man to run an errand, much less practice law". M(35-49)(UG) maintained lawyers should spend more time in the community to help low-income people and others who cannot afford a lawyer as a way to increase their visibility in the community and make them more "human".

Lastly, F(25-34)(U) opined that stricter laws could be enacted to protect lawyers that are being threatened through no fault of their own. As long as lawyers are doing their jobs, there will always be someone on the other side of the conflict who is unhappy with or resentful of lawyers.

Fees

Surprisingly, only eleven respondents mentioned legal fees as being one of the main reasons for lawyer victimization, contrary to the hypothesis that exaggerated billing practices may be one of the causes of aggression against lawyers. For example, two legal secretaries who had worked for lawyers for most of their working lives, declared that "I have no faith in them [lawyers] at all, particularly the lawyers who act in immigration matters. They do not seem to care about what kind of person they are helping to immigrate to Canada, all they care about is the fee" (F(65+)(H), and "at one time it was considered a privilege to practice law; today it is a cut-throat business. Charging \$350.00/hour for fees is high enough, \$500 is gouging" F(50-64)(U). Further, a former lawyer (who is now a school counsellor) described her experience:

I think the abuse stems from frustration with the time it takes for anything meaningful to take place, a sense of bewilderment in the procedures – why things happen the way they do, and the extraordinarily large bills people get for what does not seem like much work as the results are rarely satisfactory. Clear communication might help. Lawyers could help by explaining the system, give an account description of what will happen, why and the projected time line, and an accurate estimation of their legal fees. I was given all these things by one lawyer and the matter took twice as long as he claimed it would, the results were not anywhere close to what he had represented and actually no different than what I had going into the situation and his fees were double what he had originally quoted and he had given me no warning at any time during the proceedings that the fees were likely to be double. If he had, I could have fired him or made some other choices. F (50-64)(UG)

Others proffered the same sentiments. For example, F(19-24)(UG) maintained that lawyers should “perhaps stop charging unaffordable fees for regular Canadians, make themselves appear accessible and approachable” or as F(50-64)(UG) claimed, “the legal system is prohibitively expensive and unwieldy for the average citizen, making obtaining justice unlikely”. Another respondent offered practical advice about lawyers’ fees: “I hear a lot from other people that lawyers charge too much money and that is all for themselves. If a lawyer were to breakdown where the money charged goes (eg. staff, wages, office rental, the lawyer’s net pay, etc.) people might not get upset about how much the services cost” F(35-49)(UG). The idea of standardized fees was asked by F(35-49)(UG) “is there a chart of service price ranges that all lawyers consult and show to their clients?” Others felt the true objective should be the client, not the potential for earning fees.

Alternative Dispute Resolution

Approximately seven individuals expressed the need for lawyers to change their adversarial tactics and promote and utilize alternative dispute resolution strategies. Consonant with this idea, M(65+)(U) advocated that lawyers should

Try to slow down the “sue first”, ask questions later attitude. Council clients that every disagreement does not need to go to court and that everything that happens is not someone’s fault who then needs to be sued for as large an amount of money as possible. Work to prevent the Canadian legal system from sinking to the level of the U.S. system. . .

This line of reasoning was echoed by several others who argued that “lawyers could promote more negotiations and mediations rather than law suits” (F, 65+, U), or as M(65+)(UG) warranted, “be seen as transparent in seeking justice rather than just winning”. Promote mediation as an alternative to winner takes all”. M(50-64)(UG) concurred and that “frivolous law suits need to be reduced and contingency payouts to lawyers need to be limited”. Lastly, F(35-49)(U) believed that lawyers need to be “less confrontational in their work”.

Pro Bono/Legal Aid

Seven respondents also expressed the urgency for lawyers to increase their *pro bono* work or at least urge the Law Society and the Canadian Bar Association to better promote the positive initiatives that lawyers undertake in their communities to enhance their diminishing profiles. M(50-64)(HS) deemed lawyers should better inform the public of the good deeds they are performing, such as *pro bono* work or free public service programs. In fact, “the law society could set aside funds to inform the public on the many good works they are performing. This would certainly improve their image in society”.

Power Imbalance

Four respondents remarked on the power imbalance that occurs in a client/lawyer relationship. One respondent (M, 35-49, UG) offered insight into this phenomenon:

People who set out to hurt likely feel hurt themselves. They are emotionally defending themselves. Abuse is wrong but I think it needs to be understood in this context. Someone who threatens a lawyer is feeling effectively bullied by someone with greater power. It is this power imbalance and the feeling that they are losing by it that causes the behaviour. Two obvious but challenging strategies come to mind – reduce the need for special knowledge (power) in law and increase the knowledge (power) of the average citizen.

Another respondent (M, 50-64, U) offered the same sentiments by claiming that “nobility” and “doing the right thing” should be brought back by the profession in practicing law as opposed to lawyers portraying themselves as appearing “aggressive, arrogant and perceiving themselves as being the elite of professionals”.

CHAPTER 3.

METHODS AND PROCEDURES

INTRODUCTION

Two techniques were employed in this continued research project, first, a quantitative method whereby a convenient sampling of lawyers was utilized to collect, code and analyze data on numerous variables on the topic of aggression against legal practitioners, and second, a qualitative approach, which balanced the research in not only extending lawyers' personal insights and indeed, added another perspective into the doctoral thesis. Between May 1, 2008 and July 1, 2009, this researcher e-canvassed 15,746 actively practicing members of the Canadian Bar from every province and territory and asked them to complete an online Survey (see Appendices II and III). In the end, 897 lawyers responded to the Internet Survey.

The statistical data garnered from the e-canvas were supplemented with 61 telephone interviews of practicing Canadian lawyers, the selection of whom was designed to cover multiple variables of interest. Thus, to efficiently undertake analysis of this issue, it was obligatory that their opinions be imported into this critique to garner important opinions and personal experiences that perhaps would not surface if the Internet Survey was the only source of information on this topic.

Practicing lawyers were canvassed from the following law societies (see Table 3.1 to Table 3.13), the composition of which is set out below:

Table 3.1: Law Society of British Columbia

Practising members	10,245
Non-practising members	1,389
Retired members	473
TOTAL MEMBERSHIP	12,107

Table 3.2: Law Society of Alberta

Practising members	8,395
Non-practising members	2,013
TOTAL MEMBERSHIP	10,408

Table 3.3: Law Society of Saskatchewan

Practising members	1,627
Non-practising members	460
TOTAL MEMBERSHIP	2,087

Table 3.4: Law Society of Manitoba

Practising members	1,886
Non-practising members	226
Inactive (not practicing/no communications)	1,777
TOTAL MEMBERSHIP	3,889

Table 3.5: Law Society of Upper Canada

Practising members	21,120
Not employed (e.g., retired)	8,064
Otherwise employed	11,855
TOTAL MEMBERSHIP	41,039

Table 3.6: Barreau du Québec

Practising members	22,888
Non-practising members (retired)	502
Other (special, external etc. certificate)	45
TOTAL MEMBERSHIP	23,435

Table 3.7: Law Society of New Brunswick

Practising members	1,627
Non-practising members	460
TOTAL MEMBERSHIP	2,087

Table 3.8: Nova Scotia Barristers' Society

Practising members	1,849
Practising members – more than 50 years Life	11 36
Non-practising members (including retired)	767
TOTAL MEMBERSHIP	2,663

Table 3.9: Law Society of Prince Edward Island

Practising members	216
Practising members (out-of-province)	11
Non-practising	58
Retired	6
TOTAL MEMBERSHIP	291

Table 3.10: Law Society of Newfoundland and Labrador

Practising members	687
Non-practising members	222
Honorary	15
TOTAL MEMBERSHIP	924

Table 3.11: Law Society of Yukon

Active (residents)	124
Active (non-residents)	109
Non-practising (resident)	3
Non-practising (non-resident)	14
Retired (resident)	1
Retired (non-resident)	5
Certificates of permission to act (non-resident lawyers)	73
TOTAL MEMBERSHIP	329

Table 3.12: Law Society of the Northwest Territories

Practising members	376
Non-practising members	88
Practising with restricted appearance certificates	74
TOTAL MEMBERSHIP	538

Table 3.13: Law Society of Nunavut

Practising members	174
Non-practising members	27
TOTAL MEMBERSHIP	201

Accordingly, the lawyers canvassed and interviewed for this research project were all practising members of their respective provincial law societies.

QUANTITATIVE APPROACH

The following is a synopsis of the methods and procedures used in the Internet study.

Sample Selection

The convenience sample of lawyers was obtained from Internet searches – information was obtained which provided names and email addresses. The hardcopies of provincial legal directories were not used in this expanded exploratory study since solicitation disclaimers are enforced when buying the directories, disallowing users from using contact information for advertising or solicitation purposes. Accordingly, the Internet was the prime source used in this study to obtain lawyers' names and email addresses, an optimal choice for sample selection as lawyers who are practicing members of provincial law societies will usually advertise or publish their names online. Lawyers practicing in all areas of law were selected from websites or other online legal forums and contacted by e-mail to complete the Internet Survey. All exhaustive measures were undertaken in each province and territory to maximize the number of

lawyers canvassed in those regions. This survey excluded lawyers who did not have websites or other online advertising.

The Instruments

There were five instruments used in this project, including Appendix I which is the public opinion survey:

Internet Survey (English and French) (Appendices II and III);

E-mail introductory letter (English and French) (Appendices IV and V);

Lawyers' Consent Form (Appendix VI).

The Internet Survey was located on a secure and confidential website used by researchers and faculty at Simon Fraser University. The website was located at: <https://my.sfu.ca/cgi-bin/WebObjects/WebSurvey.woa>. The survey and email introductory letter (hereinafter referred to as "e-letter") were translated from English into French by a member of the American Translators Association who is a certified translator.

Terms such as "violence, threats and abuse" used in the online survey were modelled on descriptions used in the study conducted by the Administrative Office of the Pennsylvania Courts in the United States in 1999 (Harris, Kirschner, Rozek and Weiner, 2001). Accordingly, the types of violence, threats and abuse being identified in the survey were as inclusive as possible and attempted to capture all degrees likely to have been experienced by lawyers. Other categories were modelled on surveys used to gather data on workplace victimization. The online survey's overall appearance was designed in a manner to be aesthetically pleasing and inviting to legal professionals and aimed to attract lawyers to complete the survey, hopefully not discourage them at the outset by its lengthy collection of variables, which may have turned out to be one of the limitations of the study. The Survey consisted of 24 closed-ended dichotomous and categorical-response questions with open-ended portions embedded in Questions two, three, six, seven, nine, ten, eleven, fourteen, seventeen, eighteen, nineteen and twenty-one. The survey was substantially expanded from its predecessor in the 2005 B.C. Study in contemplation of the expanded exploratory study across Canada. It was intentionally comprehensive

in anticipation of capturing additional knowledge about this phenomenon from lawyers in every province and territory.

The Survey included seven independent variables, namely,

- Gender
- Age
- Place of business
- Status
- Area of practice
- Province where practising
- Years practising law

and twelve dependent variables including,

- Type and number of non-physical aggression within the past year
- Type and number of physical aggression within the past year
- Reactions/injuries as a result of the incidents
- Receipt of medical/dental attention as a result of aggression in last year
- Type and number of non-physical aggression in the past five years (apart from those experiences of aggression in the past year)
- Type and number of physical aggression in the past five years (apart from those experiences of aggression in the past year)
- Reactions/injuries as a result of the incidents in the last five years (apart from those experiences of aggression in the past year)
- Receipt of medical/dental attention as a result of aggression in last five years (apart from those experiences of aggression in the past year)
- Protective measures taken, both in the last five years and in the past year
- Location of aggression in the past five years including aggression in the past year
- Description of aggressor (if known)
- Aggression against lawyers increased or decreased

Question One's categorical response format identified whether the respondent had received (from a set of categories) non-physical aggression within the past year, and if so, to state the count. The term "non-physical

aggression” was described as actions that did not require physical touching and were categorized into five components: inappropriate communications, threatening communications, stalking, face-to-face confrontations and death threats. The two categories, non-physical and physical, were incorporated into this survey vis-à-vis two separate questions to better statistically manage the degree of aggression, violence and threats received from this sample population. Further, the receipt of non-physical and physical aggression was divided into two time-frames, one which asked respondents if they received aggression in the past year, and then a sequential question asking if they had received events in the last five years not including the past year. This was done for statistical purposes to ascertain whether aggression against lawyers has increased or decreased over a five-year period.

Question Two’s categorical response format identified whether the respondents had received (from a set of categories) physical aggression within the past year, and if so, to state the count. The term “physical aggression” was determined as actions that required physical touching such as slapping, pushing, kicking, knifing, shooting, etc. and included nine categories. An open-ended section was attached to this question requesting respondents to report other physical events not captured in the list of categories aforementioned.

Question Three asked respondents, from a set of categories, to list any injuries they had suffered from the aggression that took place in the last year, for example, psychological trauma, bruises, broken bones, etc. Two open-ended questions were attached to this question asking respondents to list any other types of injuries he or she had suffered or to elaborate on injury details. These categories were as inclusive as possible in an attempt to capture all degrees of injuries respondents may have suffered.

Question Four’s dichotomous category asked respondents if they had received any medical or dental attention as a result of aggression in the last year. This question expanded on the preceding question to determine if the injuries were so harmful that they required therapeutic intervention.

Question Five’s categorical response format identified whether the respondents had received (from a set of categories) non-physical aggression within the past five years (or since he or she started practicing law if under five

years) and apart from any experiences of aggression in the past year. The categories were identical to those listed in Question One.

Question Six is identical to Question Five except it asked respondents about physical aggression, listing the same categories as Question Two. An open-ended section was also attached to this question requesting respondents to report other physical events not listed in this question.

Question Seven is identical to Question Three, except it asked respondents to recite those reactions/injuries that had occurred in the last five years (or since practicing law) and apart from reactions/injuries suffered in the past year. Two open-ended sections were also attached to this question asking respondents to list any other types of injuries he or she had suffered or to elaborate on injury details.

Question Eight's dichotomous category asked respondents if they had received any medical or dental attention as a result of aggression (apart from those incidents in the last year).

Question Nine listed a number of protective measures (e.g., changed routine, installed new locks, took a self-defence course, did nothing, etc.) and asked respondents if they had initiated any of these responses to aggressive actions received in the last five years and in the past year. One open-ended question was appended to this question asking respondents to elaborate on other protective devices, if employed, that were not categorized in Question Nine. This question was included to ascertain the extent to which lawyers are prepared to change their behaviour or routines to avoid future aggression and to gauge whether respondents considered the threats serious enough to warrant protection.

Question Ten was important to establish the location of threats and/or violence. For lawyers receiving numerous threats, determining the location of these threats is useful as an indicator of the nature of future responses that may alleviate future violence. Most areas where interactions could occur were incorporated into this question, such as restaurants, different modes of public transit, home and business offices and areas surrounding those venues, cellular phones, in and around courthouses, and so on. Again, an open-ended question was appended asking respondents to elaborate on other areas where aggression was received.

Question Eleven and its subsequent categorical sub-queries (Questions 12a to 12d) canvassed descriptions (if known) of the aggressor(s). It is vital that offender profiles and their roles in the legal action be established to determine whether they are clients, opposing parties, family members, victims or other interested parties. Further, the offender's gender and age are needed to ascertain who is more likely to aggress against lawyers. In addition, Questions 12a to 12d, in a categorical format, canvassed whether aggressors consumed alcohol or drugs, or had a history of violence or mental health issues. Such information will hopefully draw a portrait of individuals who potentially may violate against lawyers.

Question Thirteen's categorical response format polled lawyers' opinions on whether they thought aggression against lawyers is increasing, decreasing or staying the same. Although this question asks respondents for their opinion, the answers will nonetheless inform this researcher on whether lawyers perceive aggression against them as something that is increasingly becoming problematic which may impact provincial law societies and their members. On the other hand, lawyers may sense such aggressive actions are on the decline. The results of this question will provide a unique comparison to actual incidents reported on the survey and will hopefully impart findings that substantiate or refute the status of this phenomenon. If lawyers perceive aggression as declining but statistical analysis finds that actual incidents are increasing, then bringing awareness to the legal profession and its governing law societies is essential.

Question Fourteen is an open-ended question that asked respondents to share their opinions on this topic, if they decided to decline an interview. It is important that lawyers' voices be heard in this study even in a written format. The question allowed those lawyers who were too busy to schedule interviews to express their opinions.

Question Fifteen's dichotomous response format began the demographic portion of the survey. It canvassed gender.

Question Sixteen asked the respondents' age range. The categories were devised to reflect a lawyer's rise in legal status from admittance to the bar, to the position of senior partner and eventually to the pre-retirement/rainmaking stages

Question Seventeen categorized places of business – from sole practitioner to government institutions – with an open-ended question attached to capture other types of businesses. Segregating lawyers into their practice venues could indicate which lawyers received more aggression, for example, sole practitioners or government employees such as prosecutors.

Question Eighteen asked respondents to categorize their status in their respective places of employment. Although age may be an indicator of a lawyer's seniority, many older individuals are entering law school, or many are putting retirement in abeyance, thus rendering age a possible unreliable variable in this case. Having respondents indicate their hierarchal status within their places of employment, whether it is a junior associate or senior partner, can provide efficient information for statistical comparison between status and aggression. An open-ended section was appended to allow respondents to provide another category not already enumerated.

Question Nineteen set out fifteen areas of practice, with an open-ended section option available to capture other legal practice areas not included. Further, if respondents had not received any aggression, then they were also requested to indicate their primary practice area.

Question Twenty sets out the ten provinces and three territories and asked respondents to choose the province or territory in which they primarily practice. This question will pinpoint the number of lawyers in each province and territory who completed the survey.

Question 21 is an open-ended question that asked lawyers how long they have been practicing law. Again, age may not be a correct indicator of how long someone has been practicing law, so this question supplements Questions sixteen and eighteen.

The last open-ended question asked respondents to leave contact information if they were willing to be interviewed on this topic. A total of 103 respondents agreed to an interview.

Next, an introductory e-letter was sent to all respondents with the link to the survey embedded in the e-letter. The e-letter was also translated into French for canvassing Quebec and New Brunswick that contained a primarily or sectored French-speaking population. The purpose of the e-letter was to introduce and briefly describe the research and bring awareness to this

nationwide study (or in the case of British Columbia lawyers, the topic was re-introduced to many respondents who were familiar with the B.C. Study). Thus, the two introductory paragraphs set out the topic and elaborated on the importance of why lawyers should consider completing the Survey. This researcher also listed her published journal articles on findings from the 2005 B.C. Study if respondents were interested in researching analyses from the previous study. Contact information was also provided for the author and the author's doctoral committee. The e-letter was professional in appearance and style and was designed to provide incentives to lawyers to complete the Online Survey by assuring confidentiality and anonymity of all responses.

A recurring worrisome limitation faced by the researcher in this study as well as the previous study, was the fact that only those lawyers who had an interest in the topic (i.e., those who had actually experienced aggression) would respond to the survey, thus generating data that would be severely skewed. Consequently, the researcher emphasized the importance that lawyers, especially those who had not encountered aggression, complete the survey so that experiences could be recorded and analyzed. Although the survey was much longer than the survey used in the 2005 B.C. Study, the e-letter emphasized the importance of lawyers responding to this important topic. Lastly, the e-letter was specifically designed so information could be contained on one page. This was deliberately done so lawyers who now use handheld mobile devices such as Blackberries and i-Phones could read the letter on a handheld screen with the fewest number of scrolls or touch pad movement.

Procedures

Following approval from the Ethics Committee of Simon Fraser University, the e-letter was sent to lawyers. This was accomplished by sending the emails to those practicing lawyers in each province and territory whose email addresses were found on the Internet. The e-letter contained a direct hyperlink for easy and direct access to the Survey. However, if law firms utilized technologically advanced "spam" filters that eliminated the hyperlink, the Survey website was also set out in the letter so lawyers could manually access it. If emails were returned "not deliverable", then the researcher either looked up the lawyer's name in the "member's search directory" on the appropriate law society's

website (if such features were available to the public) for alternative email addresses, and if none were found, then the respondent's email was removed from the list. If an alternative email was found, then the email was re-sent.

A professional web developer was employed to design an emailer for sending emails to respondents. The emailer was a simple application written in PHP. First, the final copy of the e-letter was hardcoded into the application. When the application was accessed through an internet browser, it provided the researcher a text field in which the email address of the recipient was entered. When the researcher pressed "submit", the invitation email was sent to the email address that has been entered. An electronic counter was also employed. Each time an e-letter was sent, a number stored in a MYSQL database was updated. The counter could only be accessed by the programmer so that the researcher could not modify the information. This PHP application was also duplicated to send out a French version of the e-letter. Those emails that remained undeliverable were deleted from the counter.

QUALITATIVE APPROACH

The following is a précis of interviewees and the procedures used in the interviews.

Selection of Lawyers

There was a final section at the end of the Survey asking respondents if they would agree to an interview, and if so, to leave their names, addresses, emails and telephone numbers in the space provided. Upon completion of the survey, 103 respondents left their names and contact information; accordingly, a convenience sample was utilized to draw a sample from those acknowledging interest in participating in an interview. In this regard, names were basically "thrown into a bin" and picked. The chosen individuals were then contacted by either email or telephone. Some of the volunteers responded while others did not. For those individuals who did not respond, the researcher made one final attempt to arrange a suitable time and date for an interview, and if no contact was made, then the researcher chose more names from the "bin" until 61 interviews were completed. After a series of processes of elimination, every

name in the “bin” was eventually chosen, thus resulting in 61 candidates who were interviewed. The interviews were conducted over the course of fifteen months, from June, 2008 to September 2009.

Description of Interviewees

The following table sets out information of each interviewee. Pursuant to a number of identity and confidentiality concerns expressed by respondents, cities and provinces are not revealed. Instead interviewees are identified according to time zones as follows:

British Columbia and Yukon	PST (Pacific Standard Time)
Alberta, Northwest Territories and Nunavut (although Nunavut has three time zones, MST is chosen here)	MST (Mountain Standard Time)
Manitoba and Saskatchewan	CST (Central Standard Time)
Ontario and Quebec	EST (Eastern Standard Time)
New Brunswick, Prince Edward Island, Nova Scotia	AST (Atlantic Standard Time)
Newfoundland	NST (Newfoundland Standard Time)

In total, the researcher interviewed 35 men and 26 women, of whom fourteen men (40%) and eight women (31%) reported no receipt of aggression. Years called to the bar ranged from two to 43 years ($M=18$; $SD=10.7$). Three men and three women who participated in interviews are Queen’s Counsel (“QC”).

With regard to time zone regions, 22 (thirteen men and nine women) interviewees practiced in the Pacific Standard Time Zone, with five men (38%) and four women (44%) reporting no receipt of aggression. Years called to the bar ranged from three to 43 years ($M=16.4$; $SD=11.8$).

Nine interviewees (six women and three men) practiced in Mountain Standard Time Zone, with three women (50%) and one man (33%) reporting no receipt of aggression. Years called to the bar ranged from three to 26 years ($M=14.8$; $SD=8.42$).

Fourteen interviewees (seven men and seven women) practiced in Central Standard Time Zone, with no women (0%) and two men (28.5%) reporting no receipt of aggression. Years called to the bar ranged from three to 40 ($M=20.5$; $SD=11.1$).

Five interviewees (four men and one woman) practiced in Eastern Standard Time Zone, with one man (25%) reporting no receipt of aggression. Years called to the bar ranged from eight to 34 ($M=20.4$; $SD=12.2$).

Eight interviewees (six men and two women) practiced in the Atlantic Standard Time Zone, with one female (50%) and three men (50%) reporting no receipt of aggression. Years called to the bar ranged from two to 30 ($M=18.5$; $SD=9.24$).

Lastly, three interviewees (two men and one woman) practiced in Newfoundland Time Zone, with one man (50%) reporting no receipt of aggression. Years called to the bar ranged from nine to 30 ($M=22.3$; $SD=11.6$).

Procedure

Telephone interviews with the participants were conducted during the period June, 2008 to September 2009. Ensuring that the name and contact information corresponded to the correct parties, the author called the interviewees at their given numbers (not the other way round) to ensure that the interviewees were correctly identified. If an interviewee requested that she/he return the researcher's call, then call display was utilized to corroborate the interviewee's name and number (only on one occasion). Adherence to this method ensured authenticity of participants, thus minimizing any probability that a prankster or imposter was taking the interview.

The interviews lasted anywhere from thirty minutes to one hour wherein the participants were extremely forthcoming and detailed in their responses. Accordingly, the researcher adopted the same interview format with all the participants, that is, interviews were prefaced with the assurances that no confidentiality or sensitivities would be breached, the interview would be taped and their identities would remain anonymous. Once that information was disclosed, all the participants agreed to sign the Lawyers' Consent Form (Appendix VI). Subsequent to agreeing and signing the Lawyers' Consent Form, the participants were then free to discuss and/or question the intent of this project and then proffer comments, experiences, theoretical conjectures, refutations or any other thoughts or opinions relating to aggression against lawyers.

All interviews were taped, and once interviews were finished, the tapes were transcribed verbatim into Microsoft Word for analysis and coding. Subsequent to coding and analysis, all the tapes were erased.

Table 3.14: Descriptions and Codes for Lawyers

Gender	Location	Years since called to the Bar since 2009	Areas of Practice	Violence
Male	PST	20	Family Law	Yes
Female	PST	4	Tax Law	No
Male	PST	43	Criminal/Civil Litigation	Yes
Female	PST	18	Civil Litigation	Yes
Male	PST	11	Civil Litigation	Yes
Female	PST	7	Child and Family Service Work	Yes
Female	PST	6	Prosecutor/Civil Litigation	Yes
Male	PST	4	Criminal (with some administrative)	Yes
Male	PST	11	Motor Vehicle Defence	No
Male	PST	37	Aboriginal Estate work (and mixed bag)	Yes
Male	PST	16	Condominium Law	Yes
Male	PST	7	Securities/Mergers/Acquisitions	No
Male	PST	36	Criminal/Administrative	No
Male	PST	24	Corporate Commercial/Real Estate	Yes
Male	PST	23	Labour/Employment	Yes
Female	PST	29	Estates	Yes
Female	PST	14	Family/Personal Injury	No
Male	PST	19	General Litigation	No
Female	PST	3	General Litigation	Yes
Female	PST	7	Civil Litigation	No
Male	PST	3	Insurance Defence	No
Female	PST	18	Government	No
Male	MST	14	Corporate Commercial	No
Female	MST	26	Criminal Law	Yes
Female	MST	11	Labour/Employment	No
Female	MST	11	Municipal	No
Female	MST	22	Aboriginal Law	No
Female	MST	5	Family law	Yes

Gender	Location	Years since called to the Bar since 2009	Areas of Practice	Violence
Male	MST	26	Labour/Employment	Yes
Male	MST	15	Civil Litigation	Yes
Female	MST	3	Family Law	Yes
Female	CST	25	General Litigation	Yes
Female	CST	3	Crown Counsel	Yes
Female	CST	27	Family	Yes
Female	CST	7	Family	Yes
Male	CST	29	Crown Counsel	Yes
Male	CST	33	Administrative	No
Male	CST	21	Environmental Law/Commercial Real Estate/Municipal	Yes
Male	CST	15	Federal Prosecutor	Yes
Male	CST	40	Civil Litigation	Yes
Female	CST	10	Family	Yes
Female	CST	17	Civil Litigation	Yes
Female	CST	30	Legal Aid	Yes
Male	CST	23	Real Estate/Wills and Estates	No
Male	CST	7	Commercial/Real Estate	No
Male	EST	34	Civil Litigation	Yes
Male	EST	8	Civil Litigation/Criminal Defence/Administrative/Real Estate	Yes
Female	EST	12	Civil Litigation	Yes
Male	EST	15	Municipal/Regulatory Law	No
Male	EST	33	Civil Litigation/Family	Yes
Male	AST	20	General Practice/Prosecutor	Yes
Female	AST	10	Civil Litigation	No
Male	AST	30	Administrative Law	No
Male	AST	23	Crown Counsel	No
Male	AST	28	Administrative Law	Yes
Female	AST	2	Family and Federal Prosecutor	Yes
Male	AST	20	Estate Planning	No
Male	AST	16	Legal Aid	Yes
Male	NST	9	Private sector	Yes
Female	NST	30	Department of Justice	Yes
Male	NST	28	Legal Aid	No

CHAPTER 4.

SURVEY RESULTS:

ANALYSIS AND DISCUSSION OF THE SURVEY

UNIVARIATE ANALYSIS

Data analysis was conducted using the Statistical Package for the Social Sciences (SPSS). The following tables set out the frequency and descriptive distributions of all variables on the Survey.

Demographics

The sample comprised 515 male (57.4%) and 377 female (42%) subjects, with five respondents not answering this question ($n=892$). Approximately 80 percent of male lawyers had not received any non-physical aggression in the past year, and 76 percent had not received any in last five years, and 73 percent and 66 percent of female practitioners claimed the same in the past year or last five years (respectively). Table 4.1 sets out the breakdown of the subjects' ages. As indicated, there were fewer individuals over the ages of 61 and under 30 compared to those aged 31 to 50. The largest range was 31 to 40 (30%) of the sample.

Table 4.1: Respondents' Ages (Age $n=891$)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	30 years or under	135	15.1	15.2	15.2
	31 to 40	269	30.0	30.2	45.3
	41 to 50	223	24.9	25.0	70.4
	51 to 60	199	22.2	22.3	92.7
	61 or older	65	7.2	7.3	100.0
Total		891	99.3	100.0	

Table 4.2: Status (Province/Territory do you primarily practice $n=891$)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	British Columbia	214	23.9	24.0	24.0
	Alberta	122	13.6	13.7	37.7
	Saskatchewan	54	6.0	6.1	43.8
	Manitoba	74	8.2	8.3	52.1
	Ontario	217	24.2	24.4	76.4
	Quebec	80	8.9	9.0	85.4
	New Brunswick	23	2.6	2.6	88.0
	Nova Scotia	67	7.5	7.5	95.5
	P.E.I.	2	.2	.2	95.7
	Newfoundland and Labrador	23	2.6	2.6	98.3
	Northwest Territories	3	.3	.3	98.7
	Yukon Territory	12	1.3	1.3	100.0
	Total	891	99.3	100.0	
Missing	System	6	.7		
Total		897	100.0		

Table 4.2 sets out the breakdown by province and territory. The largest contingents hailed from British Columbia and Ontario (23.9% and 24.2% respectively). On its face, relatively fewer lawyers from Saskatchewan, New Brunswick, Prince Edward Island, Newfoundland and Labrador, Yukon and Northwest Territories answered the survey. However, when these percentages are compared to the actual number of lawyers actively practicing in these provinces and territories, a different ratio emerges. For example, since there are 10,245 practicing members in British Columbia, 2.1 percent of that population were included in the survey. In a practicing population of 21,120 Ontario lawyers, only one percent were included; in Alberta, 1.45 percent were included; in Saskatchewan, 3.32 percent were included; in Manitoba, 3.92 percent were included; in Quebec, only .35 percent were included; in New Brunswick, 1.4 percent were included, in Nova Scotia, 3.6 percent were included; in Prince Edward Island less than one percent; in Newfoundland and Labrador, 3.3 percent were included and in Yukon Territory 5 percent were included. As a

result of these subsequent ratio comparisons, the lowest rates came from the larger provinces, namely Ontario and Quebec. Lastly, no respondents reported their primary practice in Nunavut. These numbers may be affected to a minimal extent by the discrepancies in the number of lawyers canvassed in each province and territory, but overall, as previously stated, the researcher made every effort to canvass as many lawyers as feasible in each Canadian province and territory.

With regard to the number of years respondents had been practicing law, the range extended from less than one year to 43 years ($n=893$; $M=15.5$; $SD=11$). Further, Figure 4.1 sets out the respondents' places of legal practice, with more lawyers from large, medium and small private law firms responding to the survey (36.5%, 25.7%, and 19.6% respectively). Rounding out the legal practices were 12 percent government employees and 5.6 percent of sole practitioners. Breaking down the respondents' roles within their employment, Figure 4.2 sets out as follows: junior associates (27.8%), senior associates (24.6%), junior partners (13.2%), senior partners (28.6%), associate counsel (5%) and semi-retired (.7%). Only one articulated student answered the survey. Seven individuals answered the subsequent question "other", but their responses corresponded to the categories set out on the survey. The sample broadly covers the hierarchal structure within private law firms, government, and private agencies.

Figure 4.1: Respondents' Place of Business (n=888)

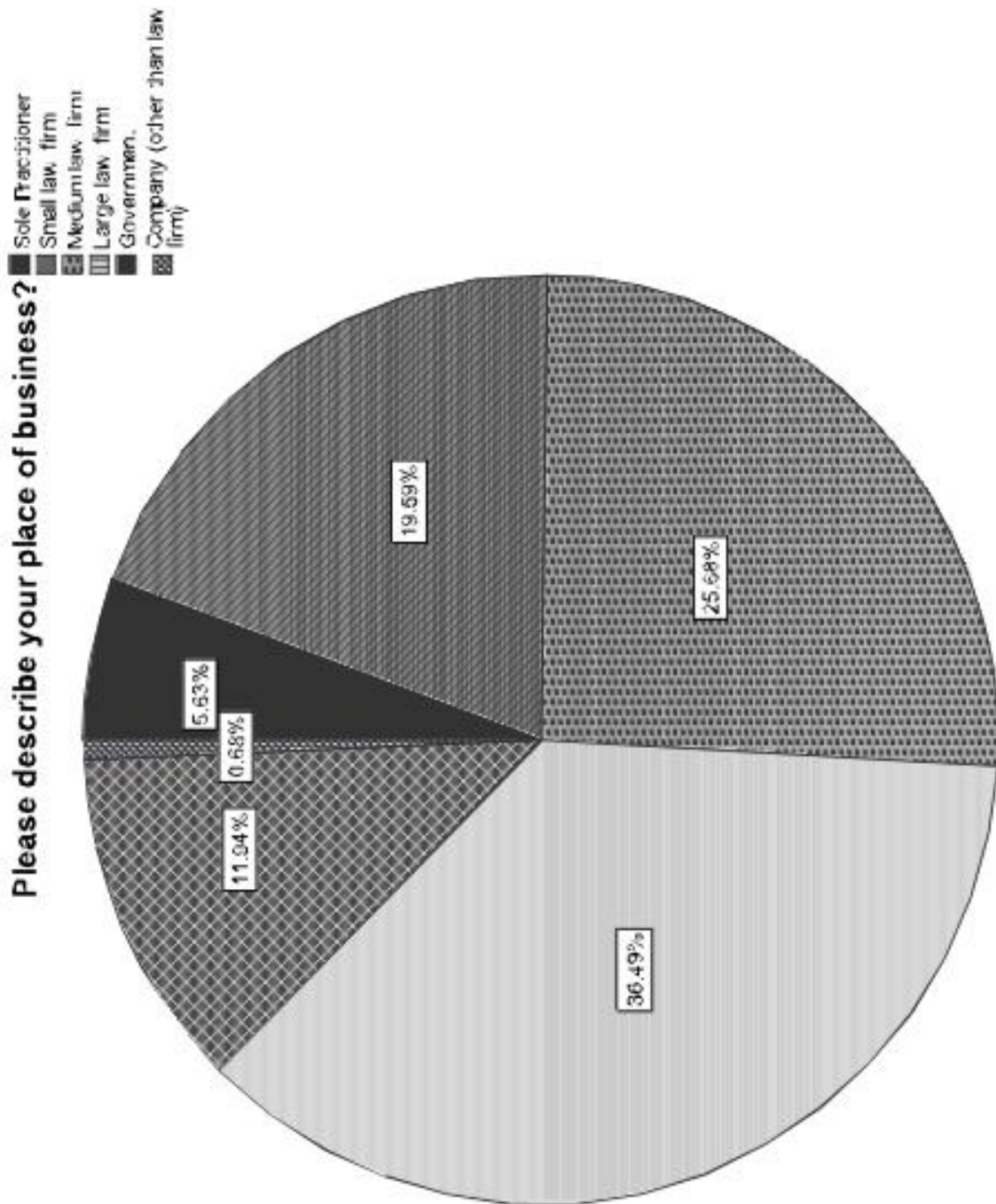
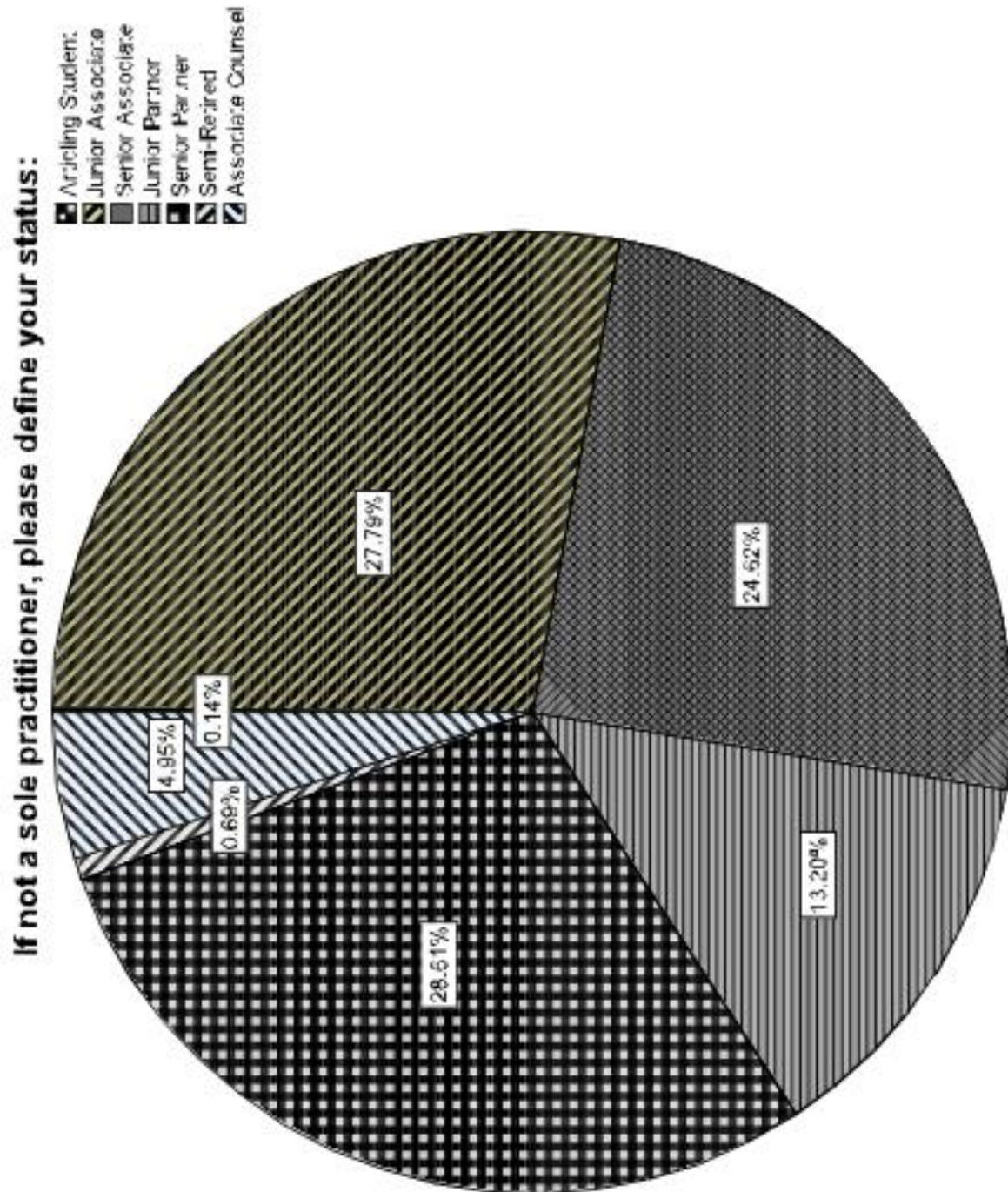


Figure 4.2: Status (n=727)



The breakdown of the respondents' areas of legal practice was set out into fifteen categories which captured most sectors of law. For those lawyers who reported receiving aggression, the largest responses came from: (1) general litigation (15.5%) followed by (2) family/divorce (9.8%), (3) criminal defence (4.2%), (4) corporate/commercial (4.1%), (5) labour/employment/human rights (3.5%) and (6) provincial prosecutors (3.0%). Respondents from every legal sector admitted they had received some sort of abuse, threats or violence. Table 4.3 lists the categories and compares the percentages between those respondents who did receive some sort of aggression and those who did not.

Table 4.3: Receive/Did not Receive Aggression

Legal Practice	Have Received Aggression (percent)	Have Not Received Aggression (percent)
Criminal Defence	4.2	1.8
Provincial Prosecutor	3.0	1.3
Federal Prosecutor	1.0	.3
Corporate/Commercial	4.1	14.7
Labour, Employment and Human Rights	3.5	3.9
General Litigation	15.3	9.9
Maritime	.1	.2
Aboriginal	.9	1.3
Family/Divorce	9.8	3.2
Wills/Estates	2.9	3.9
Securities	.7	2.9
Administrative	1.6	3.5
Environmental	.2	1.4
Technology	.4	1.4
Real Estate	2.1	4.1

Received Non-physical Aggression within the Past Year

Threats were separated into non-physical (inappropriate communications, stalking, face-to-face confrontations, death threats) and physical aggression (hitting, slapping, pushing, knifing, shooting) in order to categorize more accurately the degrees of threats. Respondents were also asked to enumerate each type of threat. Table 4.4 to Table 4.7 break down the number and types of

threats. In the past year, approximately 20 percent of the respondents had received varying numbers of inappropriate communications, nine percent had received threatening communications, approximately ten percent had received face-to-face confrontations/stalking, and just over two percent had received death threats. Although the number of incidents is minimal from a statistical standpoint, details must be further analyzed within the contextual framework. One or two lawyers being hit once or twice may seem inconsequential on paper, but the severity of the aggression, the parties involved, and the seriousness of the consequences must be reviewed here to fully appreciate the trauma that some lawyers and staff members may suffer.

Table 4.4: Received non-physical aggression in past year (n=897)

		Received non-physical aggression (inappropriate communications, etc.) in past year			
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	One	49	5.5	5.5	5.5
	Two	54	6.0	6.0	11.5
	Three	23	2.6	2.6	14.0
	Four	11	1.2	1.2	15.3
	Five	11	1.2	1.2	16.5
	Six	2	.2	.2	16.7
	More than six	24	2.7	2.7	19.4

Table 4.5: Received non-physical aggression (explicit) in past year (n=897)

		Received non-physical aggression (threatening (explicit) communications) in past year			
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	One	24	2.7	2.7	2.7
	Two	27	3.0	3.0	5.7
	Three	13	1.4	1.4	7.1
	Four	5	.6	.6	7.7
	Five	2	.2	.2	7.9
	More than Six	8	.9	.9	8.8

Table 4.6: Received non-physical aggression (stalking, confrontations) in past year (n=897)

		Received non-physical aggression (stalking, face-to-face confrontations or attempts) in past year			
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	One	35	3.9	3.9	3.9
	Two	31	3.5	3.5	7.4
	Three	6	.7	.7	8.0
	Four	5	.6	.6	8.6
	Five	1	.1	.1	8.7
	Six	1	.1	.1	8.8
	More than six	8	.9	.9	9.7

Table 4.7: Received death threats in past year (n=897)

		Received death threats in the past year			
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	One	17	1.9	1.9	1.9
	Two	2	.2	.2	2.1
	Four	1	.1	.1	2.2
	More than six	1	.1	.1	2.3

Received Physical Aggression within the Past Year

Fortunately, when asked about physical-types of aggression, those incidents that could manifest into potential serious bodily injuries, 99.4 percent claimed they had received no such actions. On the other hand, one person had been hit twice; one lawyer had been slapped twice; three respondents had been pushed once; one person had been grabbed twice; and no-one had been scratched, pinched, kicked, knifed or shot. No one reported other types of serious aggression in this section.

What reactions/injuries received as a result?

Respondents were asked to enumerate any injuries and/or reactions they experienced as a result of non-physical or physical aggression they had received

in the past year. Accordingly, 118 respondents admitted they endured psychological trauma (anger, anxiety, nervousness, confusion and difficulty sleeping), whereas another 154 claimed that the incidents invoked no reactions. No one from the sample reported injuries such as bruises, cuts, internal injuries, broken bones or teeth. In the subsequent survey question asking respondents if they had sought medical or dental consultations as a result of aggression, three recipients sought medical help but no one reported seeking dental assistance.

Further, respondents were given the opportunity in a subsequent open-ended question to detail any other problems that arose. Such comments can offer so much depth and emotion to victims' stories. For example, post-traumatic stress can impact office colleagues as well as family members, and open-ended details evince nuances that are indeed not captured in statistical numbers. When respondents were asked to elaborate in this section, further details were revealed.

Those individuals who responded here (Female=23; Male=23) will be identified as follows: gender, years called to bar, and time zone (e.g., F26, MST) – a female lawyer who was called to the bar 26 years ago and practices in the mountain standard time zone. Identity by gender, years called to bar, and time zone preserves information and personal details that can be extremely sensitive and confidential.

Reactions to threats impacted office staff, family and colleagues. M24, MST confided that a death threat received at home “was very worrisome for [his] wife”. As well, M32, EST claimed that “it is the emotional energy, trauma and extraordinary cost and loss of professional time and stress to extended family”, or as M17, EST revealed, “it affects your family too because you become withdrawn and not wanting to share the turmoil with them”. F13, CST also lamented the damage that occurs to family relations and the impact on home life. M33, EST and M38, CST had to warn many of their family members and office staff about safety concerns and risks. F10, PST also reiterated her reactions were not just limited to her – “it was also very unsettling and distressing for my staff and to my family”. F5, PST also expressed “concern for my personal safety and that of my staff, stress associated with that and stress associated with threats of false allegations being made to the law society, etc.”.

Some incidents impacted respondents, many of whom are female, to the point where they began questioning their occupation. F3, MST admitted that she was “reaching the point where I was not sure if I could continue in the practice of law. I despised going to work in the morning. Fortunately, I recognized that I needed to make a change and I changed firms”. F10, CST began to rethink her career. She suffered financial losses; the perpetrator slashed fourteen of her car tires in seventeen months, and her mail was stolen, which resulted in time and expense to re-route her mail. M16, CST simply is “feeling tired of the grind”. F31, CST also suffered stress, anxiety and depression and sought counseling. Other respondents experienced serious consequences, as F30, CST revealed that:

I have been unable to continue practicing at my previous level and am now only working part time when I feel up to it. I no longer take cases which I anticipate could subject me to [trauma]. I am also looking at upgrading my qualifications to change the type of law I practice (criminal defence, family, wills and estates and real estate).

Others also felt distraught and overwhelmed. F17, PST confided that she had experienced:

Extreme lability, suicidal ideation resulting in extended sick-leave and the use of psychoactive medication (antidepressants and [other anxiety drugs]), increased frequency and intensity of migraine headaches – no helpful treatment yet discovered. With regard to protective measures, have changed roles in my organization and reduced my workload to 4/5 from full time.

Financial burdens weighed heavily on respondents. Many respondents lamented the amount of time and money expended when respondents make vexatious complaints against them to law societies. For example, F13 AST and M37 PST claimed that it is just the “financial costs and annoyance”, while F30 PST explained further that it is the “requirement to spend needless time conferring with colleagues and the Law Society in order to determine an appropriate response – resulting in frustration, loss of time (and therefore income)”.

Please elaborate on your specific injury and/or reaction?

Again, for those respondents who had received some sort of aggression, the survey provided another open-ended question that allowed them to explain the specific details of their injuries, thus providing a deeper thrust to the levels of seriousness of each offence. It is insufficient to statistically report aggression

without putting these incidents into context. In this section, 75 (Female=37 Male=38) respondents sketched the details of the violence, threats and aggression received in the last year.

Not only can aggression occur against lawyers, it can also ricochet towards family, associates, support staff, and property. For instance, F11 MST confided a particularly shocking story that would strike fear in the heart of any parent and caregiver. Subsequent to a recently decided family matter she was handling in court, the opposing husband approached her and threatened “I’ll take away your kids like you took away mine”. The helplessness and desperation at that moment for this mother and lawyer is unimaginable. Quite frankly, one would always be wary of your children’s safety from that moment onwards. M19 PST also received a threat suggesting the perpetrator may harm his wife and child. M19 confessed that for months he was nervous and anxious, especially when he was with his very young son in vulnerable situations (e.g., loading him into the car seat).

Other respondents relayed menacing and worrisome tales – F20 AST said that one litigant approached her and said “if you go to court, there is no telling what I will do to you”. Another lawyer (M29 AST) conveyed this scenario:

I was informed by my client’s sister that my client had a “hit list”. I was on with several others. There was no direct death threat but a vague one of “getting even” with me and others. My wife was extremely concerned, more so than I.

F2 NST offered this horrific story:

One incident with a former client of a colleague who chased me in my car, calls the office and hangs up. This has been ongoing for years. The other incidents were the ex-husband of a client on a matrimonial file who for over 10 weeks would drive by my home, park in front of my home, [and] the police had to attend at my residence and up the patrols. The incidents are the same individual who also came into our office, pushed my receptionist, tried to choke our assistant and was charged with assault – also calls the office with hang up calls, follows another lawyer and his assistant, goes to the other lawyer’s home, has thrown items in the office at staff, has left hundreds of messages on our answering machine and the cell phone.

M (year of call missing) NST received veiled threats made repeatedly by telephone, in which the caller made numerous assertions – “I know where you live”, “I have nothing else to do now so I’ll make you my new hobby”. The same caller also made a verbal threat of physical violence if the lawyer attended at the

caller's (debtor's) property. In one case, a lawyer discovered, through a wiretap of an individual later charged with murder that the offender was plotting to "take out" the lawyer and his family. The accused, when released on bail, also blocked the lawyer's car when he was trying to leave court (M25 AST). M34 MST confirmed that one individual "got a gun, bear spray, handcuffs, rope, mask, gloves, and duct tape" with the stated intent to murder. M32 EST had a knife put to his throat by a man whom his ex-wife and former business partner described as an ex-convict who would have no qualms spending the rest of his life in jail for murder. F10 CST reported that an individual attempted to extort and blackmail her for monetary payments, which cost her two months and \$5,000 worth of legal fees to refute the coercions. M9 AST, who is a provincial Crown Counsel, was punched during a show cause hearing. In addition, aggression can also be implied in some bizarre ways – M19 PST was informed by his client that "like the elk she could have shot while hunting a few days earlier, it would be best if [the lawyer] defer to her and her position". The case involved alleged unprofessional conduct and by the tone and words of the threat, M19 firmly believed that he might be the next target.

Other lawyers reported damage to property. F16 EST stated that:

I had someone in a white T-shirt and jeans pull up in a truck to my house, run up my driveway and take a lead pipe to all the doors and windows in my car. About 3 weeks later, after I had the windows and body repaired, I had the same truck stop once again and the incident repeated, this time with a baseball bat on the hood of my car.

M13 EST had a brick thrown through the window of his house and F13 AST had her car tires slashed and car door kicked in while parked at the courthouse. M10 AST also received property damage when someone struck his garage door, severely denting it. Also, at the same time, 150 liters of furnace oil were stolen from his oil tank.

Many female lawyers encountered offensive behaviour. F7 PST wrote as follows:

Numerous offensive emails and phone calls with completely inappropriate language. I've been called a "f_cking bitch" more times than I can count in emails and voice messages. Other numerous offensive emails that have "soft threats" such as "watch your back" and "good luck sleeping tonight", etc. Face to face confrontations in court, where sheriffs are called in – one was actually with another (male) lawyer addressed to me. With respect to

offensive language, I hate it that it makes me wonder if the treatment is because I am female and they feel they can control me with the offensive and soft threats. I have also had things thrown at me generally and three times I have had keys thrown at me.

F4 EST received a high volume of offensive communications from an unrepresented opponent in a litigation matter, which caused her enormous concern. In fact, the threats led to criminal charges being laid. F8 EST also encountered an unrepresented litigant who sent several emails claiming that he wanted her to be thrown in jail so she would become someone's "pet" and "get beaten up". F3 EST received unwanted attention in the form of "romantic" gestures from an unrepresented litigant who continually sent inappropriate personal letters, holiday cards, emails and gifts. Her law firm ensured that she never attended court alone when she was dealing in cases involving this individual.

Received Non-physical Aggression within the Last Five Years (not including the past year)

Table 4.8 to Table 4.11, break down the number and types of non-physical threats received in the last five years, exclusive of the last year. Approximately 21.5 percent of the respondents had received varying numbers of receipt of inappropriate communications, almost thirteen percent had received threatening communications, approximately eleven percent had received face-to-face confrontations/stalking, and just over three percent had received death threats.

Table 4.8: Received non-physical aggression in past five years (n=897)

Received non-physical aggression (inappropriate communications etc.) in the past five years (or since you started practicing law) (apart from those experiences of aggression in the past year)					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	One	33	3.7	3.7	3.7
	Two	47	5.2	5.2	8.9
	Three	16	1.8	1.8	10.7
	Four	16	1.8	1.8	12.5
	Five	18	2.0	2.0	14.5
	Six	5	.6	.6	15.1
	More than six	57	6.4	6.4	21.4

Table 4.9: Received non-physical aggression (explicit) in past five years (n=897)

Received non-physical aggression (threatening (explicit) communications) in the past five years (or since you started practicing law) (apart from those experiences of aggression in the past year)					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	One	36	4.0	4.0	4.0
	Two	37	4.1	4.1	8.1
	Three	10	1.1	1.1	9.3
	Four	5	.6	.6	9.8
	Five	8	.9	.9	10.7
	Six	2	.2	.2	10.9
	More than Six	18	2.0	2.0	12.9

Table 4.10: Received non-physical aggression (stalking, confrontations) in past five years (n=897)

Received non-physical aggression (stalking, face-to-face confrontations or attempts) in the past five years (or since you started practicing law) (apart from those experiences of aggression in the past year)					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	One	43	4.8	4.8	4.8
	Two	27	3.0	3.0	7.8
	Three	8	.9	.9	8.7
	Four	2	.2	.2	8.9
	Five	7	.8	.8	9.7
	Six	4	.4	.4	10.1
	More than six	14	1.6	1.6	11.7

Table 4.11: Received death threats in past five years (n=897)

Received death threats in the past five years (or since you started practicing law) (apart from those experiences of aggression in the past year)					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	One	14	1.6	1.6	1.6
	Two	11	1.2	1.2	2.8
	Three	1	.1	.1	2.9
	Five	1	.1	.1	3.0
	More than six	1	.1	.1	3.1

Received Physical Aggression in the past five years (or since you started practicing law) (apart from those experiences of aggression in the past year)

Fortunately, when asked about physical-types of aggression, those incidents that could possibly have far more serious consequences, approximately 97 percent responded that they had received no such actions. For those who had, six people reported being hit once; one lawyer had been slapped once; thirteen respondents had been pushed once, one had been pushed twice and another pushed thrice; seven individuals had been grabbed once; one person had been scratched once; two respondents had been kicked once; and luckily no-one had been pinched, knifed or shot. No respondent in this section listed any other category of aggression other than those listed in this section.

What reactions/injuries received as a result?

Respondents who claimed aggression in the past five years were also asked the same array of questions as for aggression received in the past year. Asked to enumerate any injuries and/or reactions they experienced as a result of non-physical or physical aggression within the five-year period (not including the last year), 131 respondents reported psychological trauma (anger, anxiety, nervousness, confusion and difficulty sleeping). Another 183 lawyers claimed the incidents did not invoke any personal or professional reactions. No one received cuts, internal injuries, broken bones or teeth, and so forth. In the subsequent question asking respondents if they had sought any medical consultations, only four recipients sought medical help but no one required dental work.

Again, respondents were given the opportunity in a subsequent open-ended question to detail the aggression, threats or violence in the five-year timeframe. Respondents will again be identified by gender, years called to bar, and time zone.

F28 PST takes aggression, threats and violence in stride. As she remarked, "I consider it part of the job, dealing with emotionally distraught people from time to time. I have found that the anger directed to me is often not personal but a reaction to circumstances. I have been fortunate that no one has ever followed through on the threats, thank goodness". Accordant to the previous section, many lawyers suffered family and relationship problems. M3 EST suffered stress, emotional distress, family and relationship problems and reputational injury. F8 CST also confronted anxiety and safety concerns, not only in the

workplace but at home as well. In response, she installed a home security system with departmental funding. F22 AST admitted that she is getting worn out by the job and the continual stress as a result. M33 EST felt compelled to warn all of his family (close and extended) of the risks surrounding a particular individual. F7 PST, a family law lawyer, explained her philosophy:

I am acutely aware of my surroundings with respect to safety. This has nothing to do with any specific “incidents”, but it is the nature of practicing family law. I KNOW there are a lot of angry people out there who would and do blame me when I am successful against them in court. There are no “incidents” that make me aware – I just know and have heightened nervous responses; however, I have to go to my car alone in the dark or walk my dog, etc.

F5 PST was also concerned for her safety and that of her staff, and suffered stress associated with these concerns, along with the added stress from threats of false allegations made to the law society.

Overall, feelings of stress, anxiety, fear and anger seemed to be the prevailing responses, both from lawyers who commented on incidents that occurred within the past year and over the course of five years. Grappling with personal stresses arising from work-related incidents can be traumatic in themselves, but having to worry about staff or colleagues and more importantly family can be devastating and detrimental to one’s mental and physical health. Further, lack of support (certainly from colleagues) can leave victims feeling helpless, as M5 CST noted, when “my colleagues largely dismissed and/or laughed off the interaction, however, I was quite bothered by it for several weeks afterward and certainly felt unsupported by my colleagues”.

Please elaborate on your specific injury and/or reaction?

Again, for those respondents who had received some sort of aggression in the last five years, an open-ended question was included to allow them to explain the specific details of the incidents. Many respondents claimed the need to change focus in their legal practice. F10 AST explained that,

I have had a very good year. Non-physical threatening behaviour (including disturbing comments, following me home, etc.) was more common place at the firm where I used to work until 2 years ago. I am now at a much “higher-end” firm and although there are dangerous criminal law clients, I am treated with far more respect than in my less expensive law firm that had NO criminal law clients.

Others also expressed the urgency to change the nature of their law practice. F20 AST practiced quite a bit of family law until seven/eight years ago after which she gradually reduced her work in this area. During her family practice years, she received verbal abuse on several occasions, (most often from angry aggressive men), often occurring after hearings. She also received unwelcome non-specific threats such as “you’d better watch out”. For those reasons as well as others, she decided to remove family law from her practice.

Similarly, other respondents also received threats that cast a wider net toward family and colleagues. M34 MST claimed threats compelled an office lock-down and involvement of police, causing concern for associates and staff. The perpetrator also followed him home, creating stress and panic for family members. There was also vandalism to his home property, but although not proven, he suspects it was the same perpetrator. M16 CST also reported an incident that involved breaches of home property. Although unproven, M16 believed an angry respondent in a family law file followed him home to determine his home address (unlisted) and then punched a hole in the gas tank of his vehicle, the day after the law society dismissed the claimant’s case against him. Further, when outside of the courtroom, a family law respondent threatened to break M16’s leg, yelling and standing so close they were touching. Another incident compelled one lawyer to actually call her husband to assist her. F17 EST clarified that:

The two non-physical incidents were by the same man, a plaintiff who was suing my client. The plaintiff attempted to follow me after I examined him for discovery, which was frightening because my foot was in a cast and I was pulling a large briefcase. I called my husband who came and picked me up. Later, the plaintiff’s lawyer broke confidentiality to tell me that I should take extra precautions because the plaintiff had told him he would harm me.

Non-Physical Aggression in the Past Year/Last Five Years

Interval/ratio variables were recoded and grouped into ordinal categories to accommodate cells counts. Descriptive statistics indicate that there is little variation between inappropriate communications, explicit communications, and stalking/confrontations between the two timeframes, e.g., past year, and over the five-year period (see Figure 4.3 to Figure 4.5).

Figure 4.3: Non-Physical Aggression in the Past Year/Last Five Years

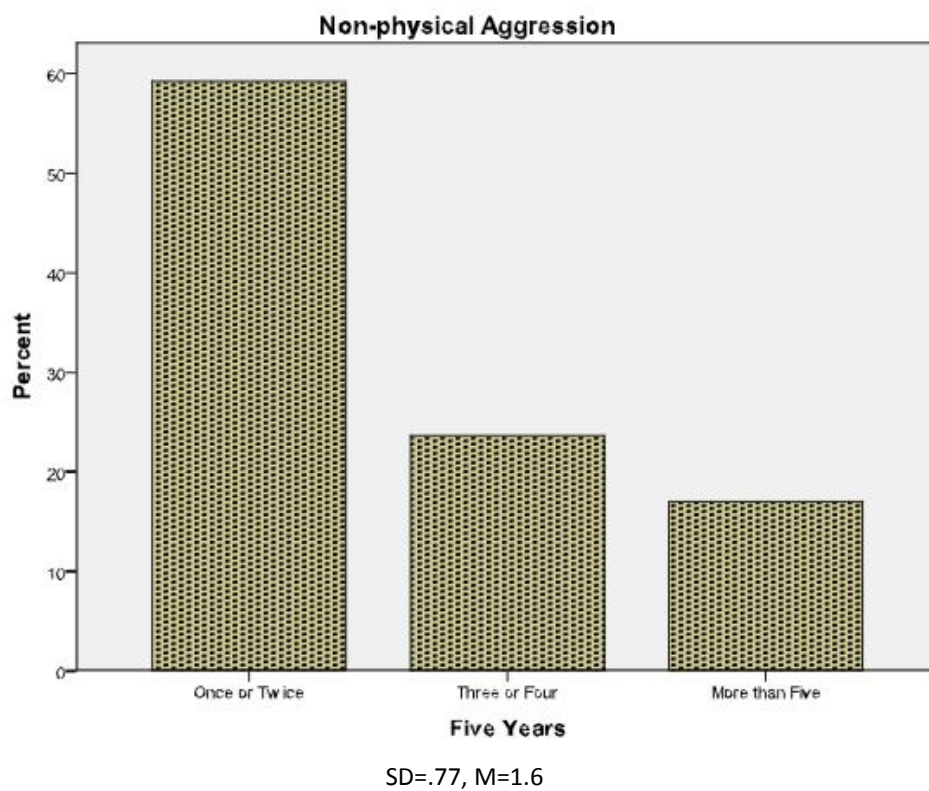
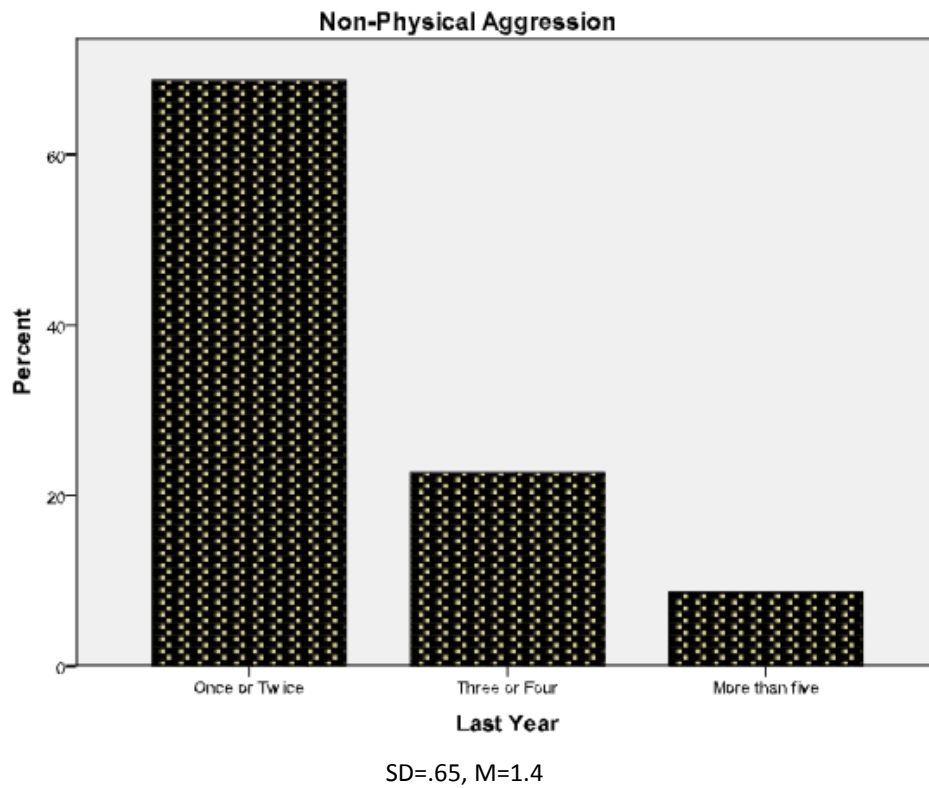
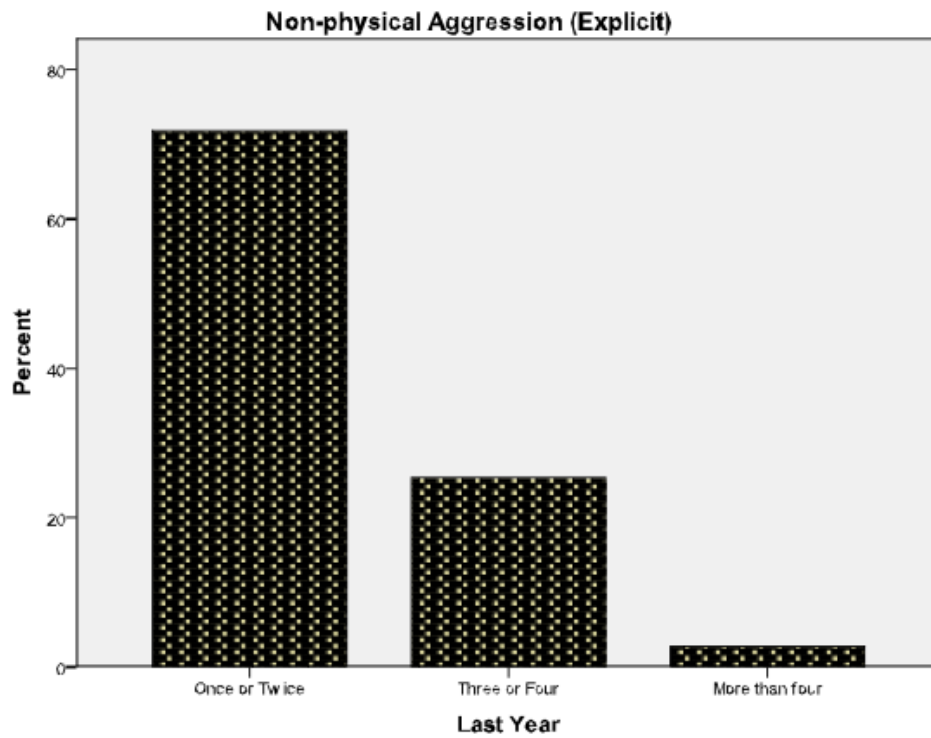
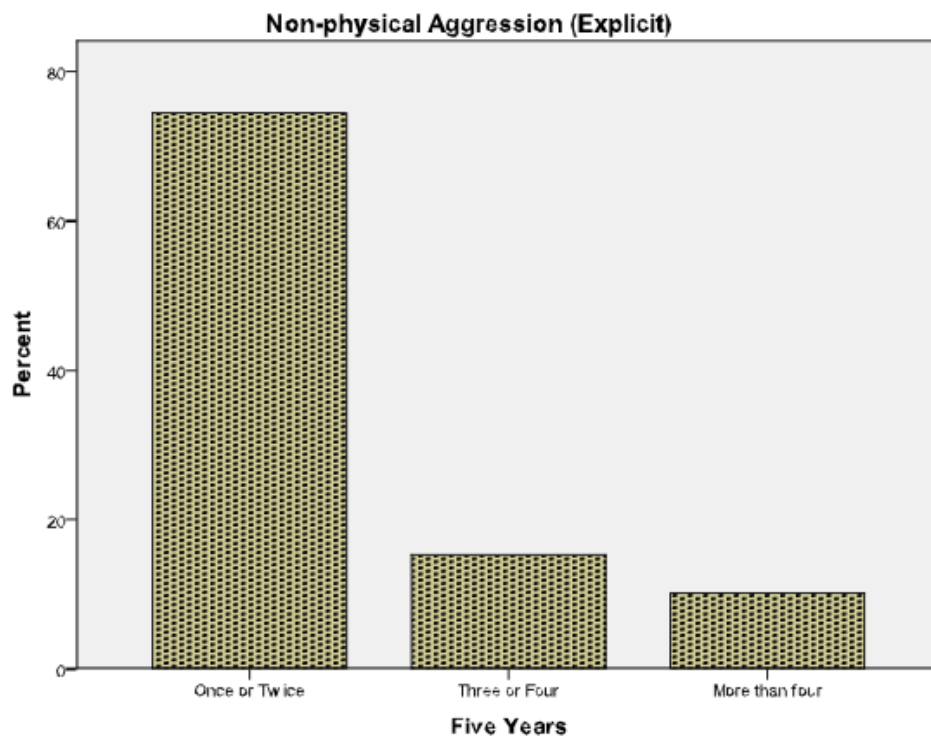


Figure 4.4: Non-Physical Aggression (Explicit) in the Past Year/Last Five Years

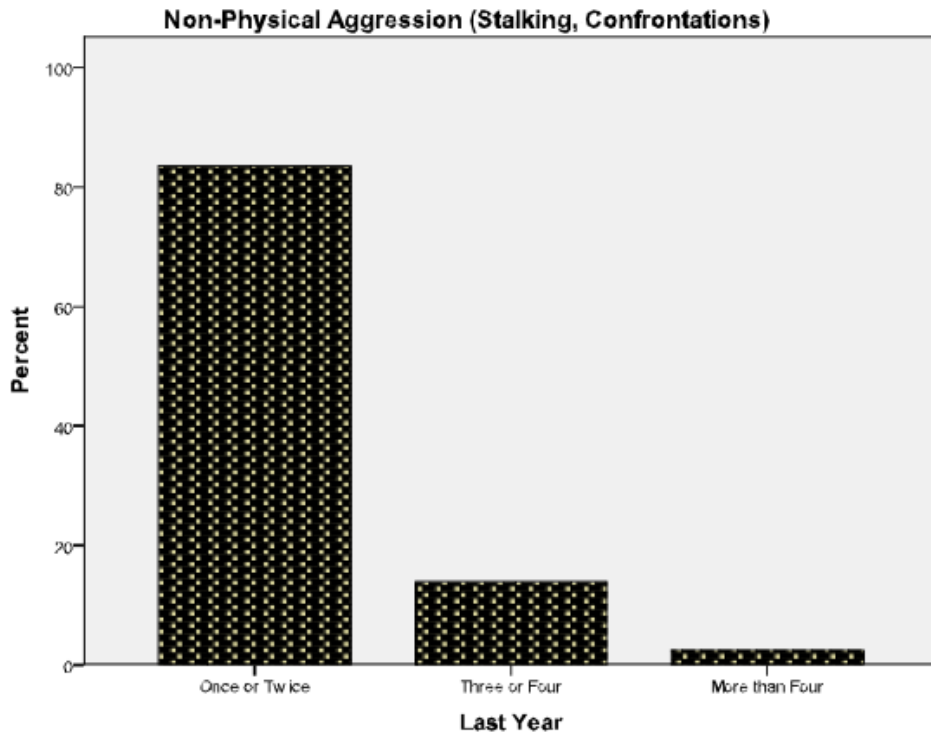


SD=.52, M=1.3

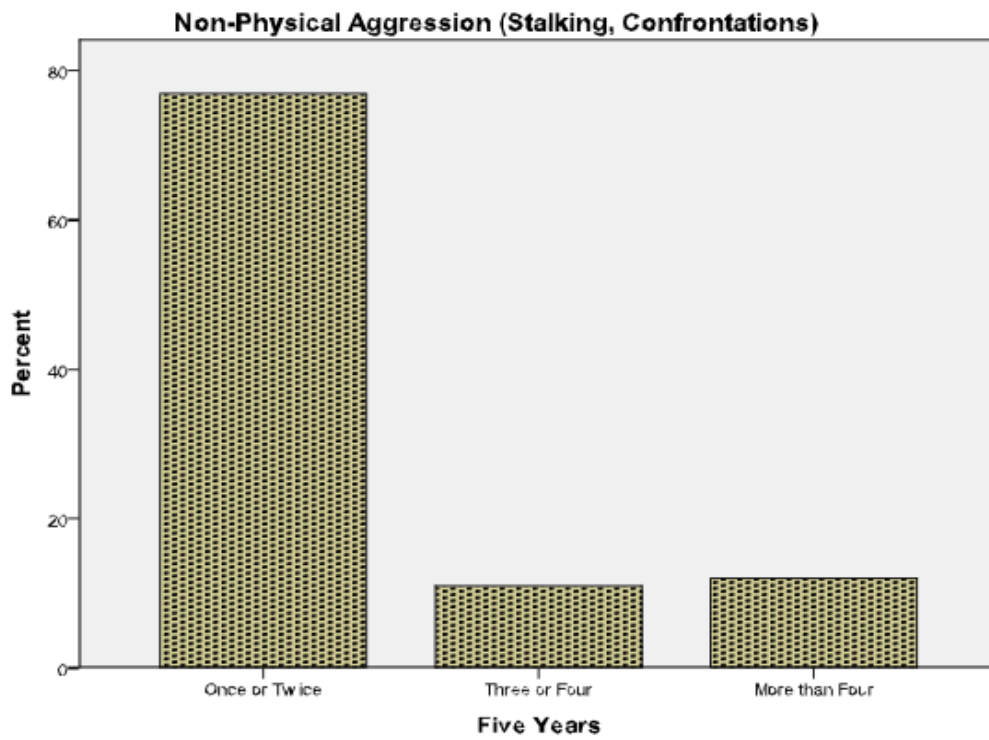


SD=.66, M=1.3

Figure 4.5: Non-Physical Aggression (Stalking, Confrontations) in the Past Year/Last Five Years



SD=.46, M=1.19



SD=.69, M=1.35

Protective Measures

Respondents were asked to list protective measures they had adopted as a result of aggression received in the past year or in the last five years. Notwithstanding the severity of some incidents, some which involved threats or insinuations of harm to family members or colleagues, few respondents opted to change their routines (10%), change security measures in the office (6.1%) or install burglar alarms in home or office (2.5%) (see Table 4.12). Given that over eighteen percent of victims chose to do nothing in the circumstances, assumptions can be made that these types of aggressive behaviours are expected in this line of work, or are not taken seriously enough to warrant changes to office or life routines. Further, this percentage could be higher given the category “not applicable” may have been chosen by many victim respondents who had not introduced any protective measures subsequent to receipt of incidents. Although private law firms across Canada may have disparate security services, certainly government organizations such as the provincial and federal Crown Counsel offices are vigilantly monitoring their staff for occurrences that may harm their employees, especially when serious incidents such as home invasions occur (Quebec Conference, 2008).

Table 4.12: Security Measures

Security Measures	Percent	
Did Nothing	18.5	<i>n</i> =895
Changed routine, activities and/or avoided certain places	10.0	<i>n</i> =896
Changed security measures in place of business	6.1	<i>n</i> =896
Installed burglar alarms or motion detector lights	2.5	<i>n</i> =896
Changed phone numbers	2.2	<i>n</i> =896
Installed new locks or security bars	2.0	<i>n</i> =896
Took a self-defence course	0.6	<i>n</i> =896
Obtained a weapon (e.g., pepper spray, gun, etc.)	0.6	<i>n</i> =896

An open-ended question provided respondents opportunities to expand on protective measures they have implemented. In total, 86 respondents answered this section. Twenty lawyers reported situations that required police

intervention. M19 MST was part of an ongoing investigation involving four parties who had their homes shot at or fire-bombed. Due to the severity of the attacks, M19 hired a private security service over the holiday period, as well as notifying the police. F11 AST installed a police emergency panic button in both her home and workplace and fitted bulletproof windows and cameras in her office. M32 EST undertook numerous initiatives – lodged a complaint to the Law Society, advised the civil court, obtained a peace bond summons from a justice of the peace which put the aggressor on notice, reported matters to the police, advised colleagues, family and friends, and hired his own lawyer. In F16 EST's case, local police installed a camera on her garage door and a monitor in her teenage son's bedroom for his safety. F20 PST was forced to adopt extreme measures. After reporting incidents to the police, she was cautioned not to sign her name to any further documents pertaining to the file in question. Her client was forced to flee the country to avoid potential harm from her ex-spouse. F20 took further steps to ensure her condominium was secure, and her name was not registered on the front door or elsewhere in the building. She obtained a new unlisted telephone number and arranged for police officers to sign her client's passport and other travel documents. Notwithstanding these precautions, she continually received veiled threats by mail from her client's ex-spouse.

Nineteen respondents initiated other security measures such as buying a dog, changing home telephone numbers to unlisted ones, removing names from the yellow pages, retaining the services of sheriffs or hiring private security teams. F15 EST hired a security company when she attended court or met with this particular opposing litigant. Security personnel also taught her self-defence if the situation became physically violent. F23 CST received the assistance of the court bailiff to exit the courthouse subsequent to an agitated incident involving an angry litigant. She has requested security personnel to accompany her on other occasions as well where issues have become heated.

Four lawyers took additional steps to notify workplace staff and colleagues of possible aggression. M17 MST warned office staff of a potentially violent opposing party in a litigation matter, and asked them to review and engage safety precautions if necessary, while F17 EST transferred an extremely contentious file to a male colleague as a precaution and at the same time provided a description of the aggressor to her receptionist in case of security

breaches. She also took the added circumspection of ensuring she was not followed home when she left the office. Lastly, M16 CST emphasized to his spouse and child the need to take to take prudent care in two separate cases, and showed them pictures of people they should “run away from”. F7 PST stated that although she has an unlisted home number, she and her partner did not want to publish the birth of their children in the local newspaper for security reasons. Her husband, who is also a lawyer, received aggressive behaviour at his office that eventually escalated to stalking.

At a 2008 conference in Quebec City on violence, threats and intimidations against judicial officials (Quebec Conference, 2008), various speakers (lawyers, judges, security officials) shared their stories on victimization and offered recommendations on security measures that should be in place subsequent to any serious breach in security. For example, The Honourable Madam Justice Michelle Furst of the Ontario Superior Court was one of the speakers. She confirmed that when she and her husband, who is a court of appeal judge, asked their insurance agent to increase their life insurance, their application was denied because it was determined that both of them were in “high risk occupations” (Quebec Conference, 2008). Another presenter, The Honourable Francois Rolland, the Chief Justice of the Quebec Superior Court confirmed that there is one courthouse in Montreal that has 96 courtrooms and 6,000 people per day go through that courthouse. In an average day, two people, on average, threaten or assault people in that courthouse (Quebec, 2008).

Another speaker, a Winnipeg Crown Counsel (Christine), told her story about a home invasion that occurred at her home in the spring of 2007. She emphasized protocols that should be in place after an event such as this has occurred. Her story began when she was prosecuting an accused gang member by the name of Patrick Noble who was sentenced to five years in prison. Christine explained that when she is prosecuting cases, she never personally engages in dialogue or contact with accused persons – she never looks at the accused; she gets out there and does her job, and the only time that she really makes eye contact with an accused person in a courtroom is when she is cross-examining him or her. So she assumed in hindsight that there might have been some hand signals of some sort between Patrick Noble and some of his gang members that she did not witness. The incident occurred the next morning.

Christine was having a restless sleep, so about 6:00 a.m. she awoke and was watching television when she saw shadows by the side of her house. Suddenly, two individuals broke through an unsecured front entrance porch and then attempted to break through the front door. Upon hearing the commotion, Ken, her slender, self-employed partner, rushed down from the second floor of the house, held them off, and in fact, stabbed one of the perpetrators in the throat with a piece of the shattered wood from the door. The police arrived very soon thereafter, and she and Ken were then eventually taken to a safe house (hotel room) and checked in under assumed names. They were advised not to return home. Although still in shock the next day, she was nonetheless questioned by the police and requested to make a video statement. The press also covered the story at the same time, releasing pictures of her house in newspapers and television broadcasts.

Because of the media exposure, together with the close vicinity of her house to the Winnipeg downtown core and gang activities, and the constant harassment by reporters, she and Ken were forced to move from a neighbourhood where they had built friendships and community relations. They sold their beloved home and moved to another area, which Christine confirmed was extremely stressful on top of everything else they had endured. They had to retain a real estate agent, market the house for sale, and deal with the financial repercussions that arose from these struggles. In addition, she was on stress leave from her job, so her mental stability was fragile, and Ken started having anger management issues. He was self-employed, so of course after the incident he could not work for a while, so the financial burdens increased.

The aftermath of this home invasion event extended to her extended family, friends and neighbours. Her sisters, one of whom works for a private law firm, and nieces all carry the same last name, so they were advised to consider changing it so as to not be associated with her, just in case gang members started targeting them as well.

As a result, Christine stressed a number of measures should be in place after a serious incident such as this occurs:

1. Do not ask a victim to recount the incident immediately – let the victim tell the story in his or her own time. It is difficult when you are in emotional shock to ask to recap it right away.

2. Advise colleagues to not display extreme emotion, as hard as that may be. On numerous occasions, male colleagues would come up and ask “how are you?” and they were almost crying because they, too, were emotional. Although it is obvious that she is still upset, it is even more upsetting when colleagues become overly emotional, which in the end exacerbated her stress.
3. Under no circumstances should a partner become obsessed with revenge. In Ken’s case, while he was off work, he started planning a retaliatory attack, making elaborate plans on how to “get back” at the perpetrators.
4. There should be a single phone number to call if you are threatened or approached. A single call, and that single call should go to a coordinator who will coordinate everything and notify the appropriate parties. The coordinator will notify the Crown Counsel office and advise the Attorney General’s office. The coordinator will make arrangements with the insurance company, organize compassionate leave, and do all the necessary paper work that is required when a serious offence occurs against a Crown Counsel. The coordinator will immediately assist in moving the victims to a safe house or hotel under an assumed name, inform family, notify all work colleagues, alert superiors, and organize the police involved to take statements at the appropriate time.
5. Organize the move of victims and family to a safe place immediately. Do not let the victims sit around the house – get them out of the house and taken to a safe place immediately. And that may include family such as children, siblings, nieces/nephews, and so on, as there might be retribution against other family members.
6. Institute a policy on financial compensation if required, which would cover the costs of selling and moving the family home, financial compensation, certainly for partners who are self-employed, payment of long term disability payments if necessary, and other compensation incurred as a result of the incident.

7. Do not release pictures of the family home on the television and in newspapers. It is bad enough that a house had been invaded but to expose it the media for common viewing is unacceptable.
8. Her original interview was on a video statement. She absolutely hated looking at that video. She was obviously in shock; she was traumatized; the video was probably going to be played in court when Patrick Noble was prosecuted for organizing the home invasion, and she did not want others who are sitting in the courtroom to see her vulnerability. She suggested that investigators conduct interviews the old-fashioned way – paper interviews – and not conduct video interviews because they highlight the victims as fragile and weak. Such emphasis on liability can undermine her credibility as a prosecutor.
9. She emphasized that people should listen to their instincts and act on them – nothing is too trivial.
10. Lastly, she emphasized a zero tolerance policy – prosecute everyone no matter what type of threat. If not, in her opinion, fear and violence will escalate.

As a sidebar, Manitoba lawyers who were interviewed for this study detailed security measures that are now in place for provincial Crown Counsel. All prosecutors have alarm systems and panic buttons installed in their homes after the police have done home surveys to evaluate safety issues. Prosecutors are mandated to attend seminars where police officers review security protocols such as walking to and from the courthouse, precautions that should be taken and so forth. Each prosecutor has been given a Blackberry so he or she is in constant contact with the office. The Blackberries and home phones are also programmed into the police 911 system as priority calls, so if police receive a call from either of these two devices, the computer system will bump that call to the top of the priority list and dispatch a police cruiser immediately. Prosecutors are advised to have unlisted home phone numbers and to register their personal vehicles and home insurance to their office addresses. Very few, if any, prosecutors currently have car registrations to anywhere but the office.

Locations

Question No. Ten requested respondents to indicate the applicable locations where they received aggression, threats and violence in the past five years including any aggression received in the past year pertaining exclusively in their capacities to practicing law. Table 4.13 sets out the frequencies reported by those lawyers who had confirmed receipt of aggression, threats and violence. The most prevalent locations for receipt of these types of behaviours are near or in a business office or courtroom/courthouse, which are the most common areas in and around where lawyers practice law.

Table 4.13: Location of Aggression

Location	Percentage	Frequency
Business office/elevator/reception/lobby	73.0	233
In the hallway outside of the Courtroom	34.5	110
In a Courtroom	28.0	89
On the sidewalk outside of the Courthouse	14.0	45
Home/home office	10.5	33
On the sidewalk /street near your business	5.3	17
In the parking lot of your business office	3.5	11
On a cellular phone	3.5	11
On any other sidewalk/street	3.0	10
On your home driveway/garage	2.8	9
In a restaurant, food court, pub, bar	2.5	8
On the sidewalk near your home	1.6	5
In your car	0.9	3
On public transportation (subway, bus, train)	0.3	1

Given that the areas of practice most prone to some type of violence, aggression or threats are general litigation, family/divorce, criminal defence, corporate commercial, labour/employment, wills/estates and provincial prosecutorial duties, it is vital that we understand where these incidents occur. Table 4.14 sets out the seven main areas of practice that receive the most aggression and the breakdown in percentages for four locations (e.g., business office/elevator/reception/lobby, hallway outside of courtroom, courtroom, and on the sidewalk outside of the courthouse).

As indicated above, it is evident that incidents of aggression in these four specific areas may occur when security is lax or inadequate. The sheriff's services cannot patrol the sidewalks outside of a courthouse, or the general vicinity outside of a courtroom, so these areas may be quite vulnerable for lawyers when leaving a hearing. It is obvious that more research is needed here to ascertain if lawyers are at potential risk for injury when walking to and from their offices after a court date, or if business offices require additional security.

Table 4.14: Areas of Practice/Location of Aggression

Location	General Litigation	Family/ Divorce	Criminal Defence	Corporate/ Commercial	Labour/ Employment	Provincial Prosecutor	Wills/ Estates
Business office	44%	27.5%	8.6%	12.0%	10.5%	6.5%	9.0%
In a Courtroom	37%	37.0%	17.0%	5.5%	10.0%	17.0%	6.5%
Hall outside of Courtroom	36.5%	42.5%	15.5%	4.5%	10.0%	12.5%	8.0%
Sidewalk outside of courthouse	35.5%	42.0%	6.5%	6.5%	9.0%	13.0%	6.5%

Description of Aggressor

In a series of sub-questions, respondents who had received some degree of aggression were asked to describe their aggressor, for example, gender, age, mental health issues, and correlation in the legal dispute. Further, queries were made as to the aggressor's use of drugs and alcohol or history of violence.

Of those respondents who answered to this question, 50.5 percent did not know if alcohol played a factor in the aggressive events ($n=158$); 42.5 percent stated no alcohol was involved ($n=133$); and seven percent confirmed alcohol was consumed ($n=22$). With regard to other types of drugs, 56.4 percent denied any knowledge of such consumption ($n=177$); 40 percent claimed no other drugs played a role ($n=124$), and 3.8 percent confirmed others were involved ($n=12$). When asked if they knew or believed the aggressor suffered from mental health issues, almost 50 percent did not know ($n=158$); 38.5 percent knew or had an inkling the aggressor suffered from a mental disorder ($n=122$), and 11.5 percent refuted this assertion ($n=37$). Lastly, participants were asked if they knew or believed the aggressor had a history of violence. Approximately 53 percent did

not know the aggressor's past ($n=167$); almost 42 percent confirmed the aggressor had a violent past ($n=132$), and 4.5 percent claimed no history of violence ($n=14$).

It seems, therefore, that respondents knew or assumed aggressors suffered from mental disorders or had histories of violence, both of which may be interdependent. If individuals have mental health concerns, this may lead to violent episodes, trouble with the law and criminal records. Although research in this area claims that those diagnosed with a mental illness may be more likely to violate the law, questions arise whether they have a greater propensity to violate than individuals without mental illnesses. Individuals diagnosed with a mental illness may, contrarily, be more inclined to self-harm or become detached from society than aggress against others (Siegel & McCormick, 2010). A more logical proposition may be that being involved in the legal system, a system fraught with rigid rules and regulations and sometimes incomprehensible terminology, may induce confusion and frustration, thus leading to possible aggressive actions.

With regard to aggressors' characteristics (gender, age, correlation), just over 30 percent ($n=283$) of respondents described their assailant(s). Approximately 147 respondents reported only males as aggressors, while another sixteen respondents divulged that only females were aggressors. Thirty-eight lawyers claimed both male and female aggressors, while the remainder of the respondents did not state gender. When it came to age, 166 respondents confirmed aggressors' ages ranged between 21 and 71 years, with the majority of respondents arguing the most prominent ages were between the years 30 and 55. With regard to the aggressor's role in the legal realm, the most common correlations were current or former clients, opposing clients, self-represented litigants, or family (most common were male ex-partners).

In sum, the general profile of aggressors seems to be males of the average age of around 40, some of whom may have a history of mental illness or violent tendencies. Most are either current or former clients, opposing clients or unrepresented parties. As a general rule, crime rates follow the proportion of young males in the population (Siegel and McCormick, 2010). In this study, however, the perpetrators are older men who, in the long run, may have a lot more to lose (e.g., livelihood, status, family, money) and are inclined to fight for

their possessions, given that these assets have perhaps taken years to accumulate. As such, the potential loss of such may cause some individuals to atypically react. Also, given the responses that confirm mental health issues are prevalent in some aggressors, policymakers should be made aware that one of the causes is the deinstitutionalization of mental health patients into the mainstream where facilities, support and treatment are rather limited. This could pose potential and continuing risk for those individuals involved in some capacity in policing, social working, justice initiatives and lawyering.

Aggression Increasing, Decreasing or Staying the Same?

The last question in this section asked respondents to express their opinions on whether they thought aggression against them had increased, decreased or stayed the same over the last ten years. Approximately 89.5 percent ($n=803$) responded to this question, with just over 12 percent confirming they believed aggression had increased; approximately 11 percent felt it had stayed the same, and 10 percent thought it had decreased. The remainder, 65.5 percent, stated they really did not know the answer to this query. Since this question called for respondents to express their opinion about a topic which they may not have the knowledge or expertise to answer, and may require conjecture on their part, these answers must be judged to be speculative at best and to be taken at face value only.

Aggression against Lawyers

The last open-ended question on the survey before the demographics section asked respondents if they had anything else they would like to tell this researcher. A total of 277 lawyers responded in this section as opposed to 103 respondents who left their names and contact information for personal interviews. Twenty-one lawyers who responded in this section also volunteered to be interviewed, and of those, nine lawyers were eventually interviewed. Therefore, one limitation here is that some duplication may occur here and elsewhere in Chapter 5. However, over-emphasis speaks volumes to the urgency of some of these issues that are occurring within the legal profession, and the concerns expressed by members of the Bar. Speaking with volunteers also allowed expansion on specific details and ideas that go beyond merely words on paper.

Again, a thematic approach was adopted to review the participants' responses to the open-ended questions in order to first determine the major themes (or topics) they chose to talk about, and second, to examine any sub-themes that surfaced within each major theme. In conducting this analysis, the author looked at the frequency of responses (Miles & Huberman, 1994), and used a process of review and re-review using a backward and forward motion to identify predominant themes (and sub-themes) as well as appropriate coding descriptors (McMillan & Schumacher, 1997). After careful analysis, numerous themes emerged. Respondents will again be identified by gender, years called to bar, and time zone.

Expansion of Aggression

Many lawyers needed extra space on the survey to vent their frustration with the system or expand on aggressive events that occurred in their working lives. Eighty-five lawyers (M=44, F=41) expanded on aggression they had received in the last year, past five years and, in some cases, over five years ago. In this respect, F7 AST succinctly recounted some of the incidents:

In my job, I receive calls from lawyers regularly who are in fear of some of their clients, who have threatened, stalked or harassed them. We always encourage them to contact the authorities. Some have had clients throw chairs through plate glass windows at the office, yell and scream and issue death threats to the lawyer and his or her family, engage in harassing communications with others in the lawyer's community, etc. I am also aware of an incident where a senior lawyer pushed and threatened his own articling clerk. Finally, I am aware of the great number of threats against Crown Counsel and Judges, and the initiatives underway at the Provincial and Federal Crown and Court level to increase security. For example, our jurisdiction recently adopted the process of having all those entering the Appeal Court go through a metal detecting and security check. Two years ago, a close friend, a prosecutor and volunteer was physically attacked in the courtroom and the Sheriffs had to physically restrain the accused. The prosecutor's clothes were torn and he was bruised.

F20 PST made a claim that judges should be made aware of the potential risk for lawyers. She was in court once when the other party was expressing his hatred of her, and the judge made a joke of it! It was certainly not funny then, and certainly not any funnier later, when the same party was standing outside of the barrister's lounge at the end of the day waiting for her. F24 MST also agreed

that one of the problems stems from judges' increasing tolerance of "acting out" in court by victims:

There is a difference between allowing victims to express their loss in a verbal formal way in public and allowing them to wear graphic T-shirts, shout, cry, stomp, yell, etc. The first is in accordance with the rule of law, the second is to tolerate retaliation and intimidation. If a judge tolerates that behaviour in court, it emboldens more aggressive behaviour outside of the court.

F6 EST felt the same way:

The sympathies self-represented parties get from the Bench in civil actions when they are inside the courtroom emboldens them outside the courtroom. They seem to think that since no one makes them follow the rules in court, they don't have to outside either. I've found that they have to threaten the judge or master before the Bench seems to understand what counsel are dealing with and before they will allow things like alternative modes of service to be used.

Judges may also refrain from taking action, even when someone is displaying aggressive behaviour. F22 AST described a hearing where the litigant was being extremely verbally aggressive to the judge and should have been cautioned or "hailed" out of court. The judge did nothing, even when the abuse extended to F22.

On the other hand, some judges do not tolerate physical confrontations. F18 MST who does enforcement of municipal bylaws was pushed by an unrepresented party, and the judge took immediate steps to ensure security was brought it and would be present for all future proceedings. She has also received verbal threats in many situations where the parties are unrepresented. She has taken steps to remove any personal listings in the telephone book. F14 PST also believed security measures (metal detectors, etc.) should be implemented in Yukon Territory's courthouse. In one instance, an opposing party was making simulating gestures of a gun in his pocket.

M26 AST has specialized in representing individuals with mental health issues. One individual threatened to kill his family and burn his house. The perpetrator was later charged and received six months in jail. The second serious threat occurred when an individual charged with manslaughter later vandalized his car. F8 CST, a Crown Counsel, was threatened with sexual assault, gang rape, and physical violence (threats to punch and hurt). She has been called a bitch,

said to watch herself, and experienced intense glaring in court. M18 CST, also a prosecutor, has been called derogatory names in the courtroom and been victimized by face to face confrontations, and yelling matches. Notwithstanding such encounters, his philosophy is to perform his job in a professional manner without “making it personal” towards the accused. By adopting this attitude, although accused persons may not like his position, they know that he is just doing his job. A young lawyer (F1 PST) felt afraid on a number of occasions because of her work. She lives in a small town and feels very unsettled about the risks for violence because of her job. For example, a defendant in one of her cases is rumored to be involved in organized crime. She stated emphatically that “this is not something I signed up for”.

On the other hand, F2 CST described quite different scenarios. As a new female lawyer working for the government, the most hostility she has received was from senior male lawyers who intimidate to advance their clients’ interests. F5 EST also confirmed aggression from male, older members of the bar, one of whom is a highly-celebrated lawyer. Much to her chagrin, older, male lawyers seem to be comfortable being aggressive to junior female counsel. As well, M3 EST claimed that the legal profession has aggressive undertones and many communications received from opposing counsel tend to be bellicose and intimidating. F19 EST reported the aggression stemmed from a “middle-aged male lawyer in her firm”. In addition, F5 EST encountered inappropriate behaviour from other lawyers and explained how gender can create a power imbalance that may jeopardize her career:

There have been at least two incidents in my relatively short career where other (older, male) lawyers have made inappropriate remarks to me that made me feel uneasy. I don’t consider myself to be “sensitive” to these types of situations, but it does make me frustrated because if I raise this type of issue I would be seen as a “bitch” or “trouble-maker”.

Many women in this study criticized the behaviour of other lawyers. F1 CST clarified that there are many instances of non-physical aggression in the field that revolves around the gender paradigm. F22 EST agreed – “the worst aggression is verbal abuse by other lawyers who fail to maintain a professional attitude”. F26 NST concurred with workplace aggression from co-workers; she has been verbally abused and intimidated by a male lawyer in her office over the past five years. She stated that “she is not alone in seeing or being on the

receiving end of this kind of behaviour". F (year missing) PST put forth the argument that it would be interesting to study aggression between counsel. She argued that civility in the profession has declined to the point where some counsel report experiencing aggressive behaviour (physically and psychologically) from opposing counsel, which could, in her opinion, be the subject of a separate study! F13 CST simply stated: "hate what I do". She is a government lawyer who drafts legislation, so she has received aggression from ministers, deputies, assistant deputies, and executive personnel. She admitted that "the closer one works with those in power, the more likely one is to be the recipient of aggressive behaviour – goes with the territory I guess".

A managing partner from a large law firm (M27 CST) has had to deal with threats against lawyers in his firm; however, most of those incidents affected practice in the area of family law. Another lawyer (F6 CST) encountered aggression in his office boardroom when conducting a hearing where it reached a point that he thought police would be needed. He wrote a memorandum to the managing partner and the executive committee suggesting that an alarm button be installed in each of the boardrooms in order to alert others in the building of potentially aggressive or dangerous situations.

Many respondents used this forum to describe events that occurred in a timeframe past the parameters set out in the survey. For example, F25 AST described events that occurred 25 years ago of aggression from a client at the court house, receipt of inappropriate phone messages and stalking incidents that involved the police, and a lewd suggestion from another lawyer that a sexual encounter would assist in settling a family matter for their respective clients. M7 AST experienced a serious incident in 2002, the results of which have exacerbated his stress level to the point where he is now suffers from chest pains. F2 MST, on the other hand, described an event that occurred when still a law student:

While a student assisting our legal aid clinic, I was representing a client who had been charged with domestic assault. He had previously been charged with sexual assault. In discussing what led to the charges, he grasped me by the upper arm and squeezed to indicate that the light pressure he had applied to his spouse was insufficient to cause the bruises on her in the police photographs. While it caused me no physical damage to me there was a sexual undercurrent to it that made me very uncomfortable. It made me suddenly realize how stupid it was of me to be inter-

viewing a new client charged with a number of assaults against women, both sexual and physical, in a small room in the bowels of the law library.

M22 EST also described a time when articulated students were required to serve documents. The recipient of the document threatened to throw him through the window. He informed his supervisor that students were ill-equipped to be involved in these kinds of services. Further, M16 PST relayed an incident that occurred fifteen years ago when he was asked by the court to drive a criminal young offender back to his home almost two hours away. In retrospect he feels that the potential for violence may be underestimated by lawyers and judges. M30 PST had five attacks over an eighteen-month period in 1985–1986 involving dynamite in his car exhaust and other egregious acts to his home. F23 NST experienced continual aggression when she practiced child protection more than five years ago, and because of the ongoing stress, changed her area of practice. M40 NST, a federal prosecutor who practiced from 1968 to 1992, once had a personal vehicle destroyed, twice had firearms discharged from outside of rooms where he was working and has had police security in his home and office.

In the end, M2 AST summed up his philosophy to practicing law: “be prepared for aggression – in legal proceedings tensions sometimes run high”. Coincidentally, another male lawyer (M20 PST) emphatically stated that “lawyers are just like other people in that they face at least the possibility of aggression. Like everyone else, they can choose to prepare themselves to be able to respond meaningfully or they can choose not to do so”.

Legal Practice Areas Most Prone to Aggression

A fair number of lawyers ($n=61$; $M=32$, $F=29$) spoke to the issue of vulnerable areas of legal practice. Overall, most claimed that criminal (both Crown and defence counsel) and family practices would be more exposed to aggression. However, F19 EST illustrated that although family law is assumed to be a contentious area of practice, estate litigation can also be quite emotional as well. In those instances where respondents reported contentiousness in family law cases, F2 NST confirmed that her firm has stopped taking family law cases. F2 AST also has tailored her practice to avoid those files which may carry with them a higher risk of violence such as criminal and family law. One of the many reasons behind the firm’s decision is the fact the police cannot assist without concrete evidence of a lawyer being followed or stalked at home. This can make

it extremely difficult for a family lawyer to practice his/her profession while also trying to gather evidence. M34 MST knew a number of family lawyers who have been assaulted or threatened with harm. The reasons behind the aggression, he argued, are the lack of available resources and less monitoring for those individuals with mental health issues. F9 CST also confirmed that many of her peers, particularly practicing in the areas of criminal and/or family law, received aggression from both clients and opposing clients. These disclosures have led her to the conclusion that this issue is of growing concern. M17 EST elucidated that:

Family law is very troubling. Emotions run very high. Often the threats are made in a veiled manner thus avoiding criminal (or further criminal) charges. Often they are made indirectly through the client by the other party as they tell what they have heard. It becomes very stressful and seemingly dominates your life while the file remains open.

M15 PST expanded, claiming that the stress of a trial, the intensity of emotions as the parties involved “do battle” against each other, and the extreme emotional responses that follow from either winning or losing the trial can expose lawyers to subsequent aggression.

On the other hand, there were a few respondents who practice in criminal and family law who reported little or no aggression ($n=11$, $M=6$, $F=5$). For example, M28 AST simply reported that “it has not been an issue for me in my family and criminal law practice”. M33 CST agreed – in his 33 years of practicing in almost every area of law, he received one empty death threat 25 years ago. F2 CST, although newly called to the Bar, did not get the sense there exists any real threats of aggression against lawyers, in spite of her practice mainly consisting of criminal and family law. F17 EST, a civil litigator, also confirmed that in her entire time in practicing law, she has encountered problems with only two individuals, both of whom did not engage in any physical altercations. M14 EST is surprised at the lack of aggression with which he is faced in his family practice – the incidents he has received have been sporadic. M18 PST explained the philosophy that he reasons may negate aggressive tendencies, “[I am] pleased that people have been able to distinguish me as a “human” from what I do. Plus, I’m pretty easy going, even when I have to get tough – I really think that helps”.

Reasons for Aggression

Many respondents ($n=43$, $M=24$, $F=19$) chose this opportunity to express their opinions on why aggression against lawyers occurs. The reasons ranged from lawyers expressing their dismay at the amount of lawyer jokes circulated in our society to lack of support from law societies and the Canadian Bar Association. F5 EST, for example, felt that there is nothing wrong with the occasional lawyer joke, as long as it is socially acceptable, but to demonize and insult lawyers as the norm rather than the exception can exacerbate certain forms of aggression. M19 AST also concurred, citing the large number of “jokes” which subject matter involves killing lawyers. On the other hand, F6 MST opined that public opinion about lawyers continues to wither, and the Canadian Bar Association and provincial law societies are minimally involved in rectifying this perception. As a result, she claims, it is easy for perpetrators to justify the use of whatever type of aggression or violence they choose.

Others also were dismayed at societal disrespect towards lawyers. F10 PST conjectured that,

Generally, our society is hostile and distrustful toward lawyers. This is amplified in some people. Many lawyers remain ignorant and continue to believe that violence constitutes physical contact. They don't consider verbal abuse or clenched fists or gestures as implied violence or aggression – just someone responding to a stressful situation. As lawyers, we are expected to take all of this as part of the landscape, something we signed on for.

F10 PST concluded that aggressive incidents are consequently making one question the line of work and one's “way of being in the world – something you cannot readily share in a culture that values aggression and confidence”. M20 MST also concluded the public perception of lawyers has deteriorated in the 20 years since he began practicing law, with F11 AST asserting that over the last few years, aggression has correspondingly increased as the respect for the judicial system has decreased. M20 went on to describe the security in his office:

My office building is a fortress. There are two security guards on watch. You need a pass to get on an elevator and to pass from one floor to another. I often think what a great target this building is for some nut, seeing that it is filled with government lawyers.

M20 AST further posited that “when I decided to go to law school, graduated, etc. I had an image of respectability of lawyers. I was not prepared for the derision which lawyers in general endure. Public perception is that all lawyers are crooked and thieves”. M18 PST claimed clients just become more demanding and expect too much from lawyers. The problems stems, in part, from expectations in the service industry. There is little appreciation for uncertainty but rather an expectation of results consequent on the payment of money. M20 PST also continued along this vein, postulating that there is an “anti-intellectual” mood in Canada and lawyers are “at the top of every nut-job’s list”. He described an incident with a colleague who received a death threat from an individual who was stopped by R.C.M.P. at the Coquihalla toll booth with a loaded shotgun in his car trunk. Again, F29 NST agreed that there is a lack of respect for the profession and a “depersonalizing” of individual lawyers. The prominence of women in the profession over the last couple of decades may have impacted the potential increase of aggression and violence, as M3 EST also theorized that “when the Bar consisted entirely of domineering men, clients would feel less likely to try anything out of fear that there would be directly physical or other reprisals”. M26 EST confirmed that gender may underplay incidents of aggression:

Our firm defends claims against government authorities including malicious prosecution and sexual abuse claims. It is my impression that female lawyers in our office are more likely to encounter threats or intimidation by the opposing party than male lawyers. We have had one incident in the last two years where we discovered that a plaintiff was stalking our client and we had to report the stalking to the police. The police were successful in stopping the stalking.

For a couple of other lawyers, it seems the media and youth culture may be to blame. In these cases, M35 PST blamed the media for much of this derision, which legitimizes aggressive types of behaviour, and F5 PST agreed – she said the media fuels aggression against lawyers, especially in the cases of self-represented litigants who think they have the right to be aggressive with lawyers when they are unhappy with a legal result. On the other hand, M10 AST looked primarily at learning values in youth, professing that respect is no longer a value taught to young persons, either for themselves or others, and this lack of education is flowing into youth’s daily conduct and continuing into adulthood.

Other respondents insisted the public is generally unaware of the role lawyers have in society. Therefore, some felt the adversarial nature of legal practice leads to aggression and misunderstanding. F5 NST supposed the adversarial nature of the profession could contribute to the creation of grudges and hatred towards its members, a premise confirmed by F13 AST, who held that lawyers are often required to challenge information of the opposing side, sometimes rigorously in cross-examination, and the brunt of the anger after a trial or other events is often leveled at the lawyer. F7 PST adduced that many people in the public seem to misunderstand the important role lawyers play in our community in upholding the rule of law, procedural fairness and other tenets of our democracy. She further analyzed that people who have acted aggressively towards her did not appear to appreciate her role as an advocate, and somehow attributed her clients' views and interests as her own. F3 AST concurred about a lawyer's role, perceiving the aggression she received from opposing clients was because they felt she was responsible for the actions of her client and that she was personally, not professionally, involved. In F3's mind, the perpetrators did not appear to understand her role and turned their aggression at the case towards her, so M20 MST concluded that, "it is important that the aggressor be made to appreciate the place and purpose of the lawyer in the scheme of the problem". M6 EST underscored the problems in Canada's legal system:

Given the cost, delay and uncertainty that characterizes the trial process, I understand when individuals lose all faith with the judicial system: costs, delays, wacky decisions, incompetent or malicious lawyers stoking flames, every reputable lawyer advising settlement above all. As a litigator, I have no faith in the system myself. I am also sincerely surprised there is not more violence against lawyers.

As well, F1 NST claimed that people's expectations have changed. Accordingly, M9 MST put forth measures that lawyers should adopt to minimize adverse reactions, namely effective management of client expectations. Lawyers should not promise what they cannot deliver, whether one practices real estate, civil litigation or criminal law, and so on. In the same light, M20 CST believed that if clients are educated about the system and lawyers' roles, then they may be less inclined to act out. M33 EST concurred – customers can become aggressive because lawyers are not always accessible to their clients, do not return telephone calls, remain distant and are not easy to approach.

In the end, M32 EST commended this study. As he philosophized,

If one looks around the world, judges and lawyers are killed and suffer aggression greatly, we are lucky in Canada, but with increased litigation costs and tension in the world, I believe this tendency will increase, we need more non-adversarial problem solving processes getting there.

Aggression and Mental Health Issues

A number of respondents ($n=28$, M=10, F=18) posited that mental health issues play an integral role in aggressive behaviours. M9 MST was of the opinion that although aggression is never warranted, there will always be “unstable” people out there, an hypothesis also substantiated by M10 MST, who adduced that “there will always be a certain type of person who will respond with aggression in an effort to express their emotional attachment and commitment to an issue”. With regard to self-represented plaintiffs, F3 EST worried about their mental stability as well. She, too, underscored the emotional involvement many of these unrepresented litigants seemed to harbour in their cases, which F15 PST accented as unnerving when one encounters a lay litigant who is unstable. F8 EST asserted that, as well, many unrepresented individuals may misunderstand the legal system and misinterpret the lawyer’s role. According to F2 PST, “a lot of it stems from not understanding the process of litigation and taking it personally when a lawyer is just doing his/her job. I think aggression is more prevalent by male, unrepresented, under-educated lay-litigants, who often have a mental disorder”.

F17 AST affirmed the increase in more people with mental health issues coming into contact with the justice system, with many now being treated in the community. As such, M3 EST confirmed it means greater interaction with the law and lawyers. For example, M8 PST considered courthouses a “magnet” for people with mental health issues and additional security measures should be implemented to protect lawyers. F30 PST was convinced that a high proportion of litigants, especially in family disputes, have underlying long term mental and/or personality disorders which may precede the legal difficulties.

Protective Measures

A few lawyers ($n=22$, M=15, F=7) expressed their opinions on what remedies or protective measures are or could be undertaken when confronted with aggression. A few men considered their physical size to be the main deterrent.

For example, M20 MST considered his gender and height (193cm) as the prime disincentive for aggression, while M18 PST, who weighs 150kg and is 195cm tall, also swore his size deters aberrant behaviours. M4 PST admitted that because of his “larger” size, it is rare the individuals, even outside the practice of law, are aggressive towards him. M11 PST also suspected that because he is “larger than the average guy” that “unstable” people will be more likely try to affect him through words rather than intimidation. No women in this study claimed that gender, and body girth, length and weight, acted as detractors for aggression.

Others emphasized their demeanour with clients tended to engender trust and confidence, thus disinclining aggressive behaviours. F4 AST professed that if “someone is anxious or borderline, I am usually pretty good at calming them down, so that there is no escalation or at least no anger directed at me”. F26 MST has always worked on fostering mutual respect – she has always received respect from all individuals with whom she has worked and represented, even in the most adverse circumstances. Because of her attitude, she has never encountered any type of problems. M36 EST always tried to be polite, even when dealing with difficult individuals, and M18 PST is pleased that people are able to distinguish him as “human” from what he does – he is easy going even when he is required to get tough in certain cases. He maintained this really helps in diverting aggression. F12 CST resorted to using a “poker face” and physically withdrawing from situations if she is able. Certainly in the courtroom she often remains calm, using the other person’s aggression to their detriment. M7 PST used empathetic skills, and considered that it is imperative that lawyers need to “listen” to the party, ensuring the person feels “heard” when venting, thus hopefully reducing the risk of the situation escalating. However, he offered this disclaimer – “those practicing in direct contact with or as adversaries of those with demonstrated criminally violent potential may be at greater risk despite a lawyer’s diplomacy”. M29 EST also declared that lawyers need to “tone down” the rhetoric when advancing their cases. As he proclaimed, “we can advance a case without pushing buttons”. However, two male lawyers took different approaches – M5 CST, for instance, tended not to reveal the fact that he is a lawyer in social situations due to the general unfavourable opinions of lawyers’ reputations, while, interestingly, M20 CST emphatically declared, “if they threaten me, I usually invite them outside to the ‘back alley’. This usually shuts them up immediately”.

The remainder spoke generally about office, procedural or home initiatives undertaken to enhance security. M3 MST upheld the idea that the proper response is to deal with opposing parties in the courtroom and not on the street; M20 CST screened himself from his clients fairly well; M6 EST delisted his home telephone number and took other general precautions; F9 PST adopted the same approach, since she is a government lawyer, she does not list her home telephone number or make work-related external calls from her home telephone. F33 CST also had taken precautions by not listing her home address in the telephone book nor in other directories.

In sum, F10 CST summarized the problems that lawyers in Canada face:

We are not protected. Not by the usual public services and certainly not by our own governing body. We have yet to establish a body that works in conjunction with the law society to assist lawyers either in these situations as victims or in the complaint process when there is a wild or baseless complaint. There is no vetting process which results in the lawyer having to set aside valuable practice time to deal with what can be a baseless complaint and endure humiliation and stress all the while. We are the only profession that acts first (14 day letter) and asks questions later and we have the privilege of paying for this. In the circumstances where the complaint is baseless and the complainant is using the process as part of a vengeful campaign or agenda, the lawyer is subjected to a passive-aggressive form of abuse and there is little acknowledgement or regard for this. This can affect you both professionally and personally. We recognize mental and emotional abuse in many other venues – personal relationships, employer/employee, parent-child but rarely if ever in professional-client relationships and I am here to tell you that this type of abuse is alive and well.

Aggression against Lawyers – Never heard of it!

Many lawyers simply had never heard or even thought about aggression in their practice. A total of twenty-four lawyers (M=22, F=2) claimed this issue was not a concern. Fifteen of those lawyers are from Ontario and Quebec.

For example, there seems to be a clear dichotomy on this issue in the province of Manitoba. M25 CST admitted that he has never personally encountered the types of aggression set out in the survey nor has he ever heard about it from others. Further, he stated that he had not given this topic much thought. Similarly, F2 CST opined that she did not get the sense that there are any real threats of aggression against lawyers any more so than in other

professions. Then again, other respondents from Central Standard Time Zone confirmed that Crown Counsel have seen a significant increase in threats against them, and the serious concerns arising from such incidents initiated the provinces into action to implement security measures. These dissimilar comments make one wonder if members of these provincial Bars or Law Societies really know what is happening with regard to one another, and whether the different legal sub-sections in these areas are aware of the dangers that some members face in the course of their professional duties.

Obviously, there is a similar disunion between genders, given the predominant male response in this theme. The mean years of call of the male population ($n=22$) who have never heard or thought about this problem is 15 ($SD=11.4$) indicating that slightly older, more experienced male lawyers may not consider aggression against lawyers a problem. Further, many of these lawyers who responded in this section are employed in the corporate/commercial sector, thereby hypothesizing that lawyers who work in this field may not consider this problem can occur elsewhere in practice. And many were emphatic in their responses. M30 MST declared: "I do not have any reason to think this is a problem at all", while M7 EST protested that "quite frankly, I am surprised that this is even a topic worth studying". M28 EST stressed that he "has no particular comments on this issue", and M (missing province and years of call) pontificated (in capital letters): I CANNOT think of any instance that would qualify for your study". M6 EST argued that "I have never even heard of this being a problem" or as M5 EST puzzled, "I do not know if this problem is real". M3 (EST) upheld that "it is not an important problem". Further, given the concerns expressed by many lawyers in the Yukon Territory, contrarily M17 PST "[did] not think that this a very prominent issue, at least in the Yukon". The second of the two females who expressed their disbelief of this phenomenon (F5 EST) stated that "as a corporate lawyer working on Bay Street, I have not seen any aggression directed towards any of my colleagues other than heated discussions between counsel". Assumptions can be made here that if there is aggression against lawyers who work off Bay Street, then it is of no concern to her and other Bay Streeters! In this vein, M5 EST laughably derided the Bay Street mentality:

I have a feeling that lawyers that practice in large firms or corporate/commercial boutiques are more likely to be "targeted" for common theft/pickpocketing commuting to and from work as "suits"

than they are to be selected because they are recognized as lawyers, bankers, lawyer, real estate agents. I don't think it matters to the thief so long as you are dressed nicely and have a nice watch on. Easy pickings in a suit with a nice watch and a fat wallet — that's what the thief is after and I don't think it matters one bit to him or her what the target's profession is. Fortunately our crime rate is lower than in major U.S. cities (for the moment) hence less publicity for attacks on lawyers. A few heavy weight Bay Streeters going down in the PATH on the way to their gyms or parked cars and it will be all over the CBC/CTV (and the CBA's radar) faster than you can say Purdy Crawford has solved the ABCP crisis!

In sum, it is somewhat surprising, given the 2003 Resolution of the Ontario Bar Association outlining risk assessment protocols, and the drafting of the subsequent 2005 Security Handbook for Lawyers published by the Ontario Bar Association, and the seven murdered lawyers in Ontario and Quebec over the last few decades, that Ontario and Quebec counsel would be more sensitive to this topic. Notwithstanding, M(EST) (years of call missing), a corporate lawyer, confirmed that he had not generally been exposed to the types of violent personalities that a criminal or family lawyer would encounter, but admitted that his colleagues had received threatening messages or emails related to corporate transactions, for examples, "don't go digging where you shouldn't. . ." or "you don't know what you are poking around in. . .", and so on. In his words, "corporate transactions often require open disclosure of financials and this has the potential to alarm unscrupulous individuals involved in any business".

CHAPTER 5.

THE INTERVIEWS

INTRODUCTION

As noted earlier in Chapter Four, 61 practicing lawyers were interviewed between June 2008 and September 2009, all of whom were required to sign a consent form pursuant to university ethics requirements. The interviews were based on an open-ended question format, scripted from both general findings from the B.C. Study and the literature review in this study. At the beginning of the interview, respondents were reminded of what constitutes “abuse, violence and threats” delineated on the online survey. Again, for the sake of brevity and clarity in this Chapter, the terms “abuse, threats and violence” (as set out in the survey) will be collectively referred to as “aggression”, unless otherwise specifically stated by the interviewees.

In these interviews, this researcher wanted to explore theoretical assumptions; analyze the contentious actions caused by self-represented individuals in the legal system; canvass the public’s legal knowledge retrieved from the Internet; review gender issues in practicing law; and raise the issue of unethical billing practices. In addition, ideas to possible solutions were evoked, for example, the probabilities of including more legal education in elementary and secondary schools to promote legal literacy; education in law schools or additional or enhanced mentoring programs in law firms on how to become a legal practitioners from a law student; and emphasizing the importance or reluctance to highlight the issue of aggression against lawyers to provincial law societies and the Canadian Bar Association. The open-ended semi-scripted questions were formulaic in practice only, and this researcher would digress often from the script when warranted to capture important information relayed by the respondents. In the end, interview transcripts were reviewed and

re-reviewed for emergent themes (and sub-themes), using an open coding method (Miles & Huberman, 1994; McMillan & Schumacher, 1997).

This researcher also wanted to avoid the pitfalls of identifying too closely with the perspectives of the interviewees to avoid bias in reporting. However, because of this researcher's twenty years of experience working and socializing with lawyers, it can be difficult to maintain objectivity at all times or as Hagan (1989) explains, "the tendency of observers to overidentify with groups" (p. 156). Notwithstanding, every effort was made to maintain as much objectivity as possible during the interviews.

This researcher used telephone interviews instead of face-to-face meetings for a number of reasons. First, costs were minimal when interviewing lawyers outside of the Lower Mainland of British Columbia. Simply, telephone interviews offered an inexpensive alternative. Second, the convenience of using a telephone for interviewees as opposed to meeting at pre-arranged times and locations improved the response rate. Most respondents could fit telephone interviews into their busy schedules. Lastly, the lawyers' times and dates were more flexible for interviews – many opted to work from home or on the weekend, so convenience was a factor. However, there are a few limitations with telephone interviews. Personal contact is an advantage as the interviewer and respondent might develop somewhat of a rapport with one another, perhaps allowing the interviewee to feel less encumbered in releasing his or her opinions. Further, corporeal feedback and visual cues are absent in telephone conversations, thus rendering the researcher blind to body language and facial expressions which might provide additional information on particular topics that could be further probed. Further studies will use Skype© video-calling technology when it becomes more widely used amongst the legal profession, because this technique offers comparable advantages to face-to-face interviews. Lastly, the length of telephone interviews is usually shorter than face-to-face conversations, and in this study, many of the interviews were no more than 45 minutes in length whereas in the B.C. Study, participants engaged for as long as one hour or more.

For the sake of brevity, easy referencing and anonymity, interviewees in this section will be coded by gender, location (time zone), number of years called to bar, and whether they received any violence, aggression or threats. For

example, M(PST) 20Y is a male lawyer located in the Pacific Standard Time Zone who has been practicing for 20 years and received violence, aggression and/or threats.

THEORY

Each participant tendered his or her own opinions on the reasons why lawyers are receiving aggression when practicing law. This researcher found that some interviewees who had received aggression found it difficult to objectively proffer theoretical opinions, rather subjective hypotheses around their own experiences were analyzed. Overall quite a few general themes emerged, although ten lawyers really did not have any concrete ideas of why such actions occur. In this section, regional, gender, and victimization differences amongst lawyers were insignificant.

A majority of the interviewees (75%) surmised that individuals entwined in legal disputes often perceive themselves as victims of the system, which can lead to frustration and atypical behaviours. If individuals sense they have been wronged, and the judicial system is not supporting them with the outcome they expect, they may tend to externalize the blame onto judicial personnel. F(CST) 3Y acquiesced that being involved in legal situations place people in circumstances that can be out of their control, so they frustrate easily. As she explained, some of these individuals suffer from legal misunderstanding; nevertheless, they may assume some semblance of legal knowledge. They are discredited when they meet their lawyers and are given the true facts. Add the stress, costs, and the antagonistic issues involved in law suits, and it becomes a massive recipe for aggression. F(CST) 25Y also underscored the expense of litigation, annoyance with a dexterous system and inter-personal difficulties can all lead, without question, to extreme frustration. M(AST) 28Y contemplated whether the frustration stems from misinterpreting the system, or is it frustration with encountering delays and costs? He is a family lawyer whose clients are constantly hampered by costs they cannot afford. For example, in child custody situations, he questioned how to resolve issues that might arise, for example, when a psychologist might need to get involved, but the client cannot afford to retain one. He further explained that, "you're saying to the father that you need

to hire a psychologist that's going to cost you \$10,000 and the father only makes \$34,000 a year, and the father has to pay child support, has a mortgage and needs a new car. So people get frustrated". To compound matters, clients do not understand a system, a *modus operandi* designed for the moneyed but prohibitive for the poor. Sadly, he confessed that a couple of his clients committed suicide a few years ago. In his opinion, family law has no business in the court system, given it just creates more animosity, frustration and aggression. All and all, it merely makes a bad situation that much worse. F(MST) 3Y empathized with clients who, in dire need of assistance during a time of crisis or life change, phone her to commiserate. She must remind them, even in these circumstances, that they will be billed nonetheless for these types of conversations, and in many cases must refer them to religious affiliations or other family members. Although he does not practice family law, M(MST) 14N insisted on the personal tragedies that can occur in family litigation, which may explain why individuals may act atypically:

You're dealing with things that are personally important to clients. It's not just money, it's family. People don't get really rational when they're faced with losing family or when they're faced with situations where they have lost family or are in danger of losing their children or losing access to their children. It's highly, highly emotional situations and they're just reacting, I guess.

People "get crazy" in three kinds of situations – family law, estate litigation and partnership breakups, and this craziness gives birth to various emotions – frustration, betrayal, and loss of trust (M(PST) 24Y). They become frustrated because they want the procedures to pace faster or outcomes that are fair are perceived as unreasonable. They interpret the "machine of law" is not acknowledging their pain and emotional upheaval. In the same view, F(CST) 7Y posited that aggression against lawyers, especially family lawyers, is displaced aggression against spouses because lawyers act, in her words, as a "shield". She admitted that, as a family lawyer, she confronted men who, in the past, have terrorized and controlled their spouses both emotionally and financially, and now when they are faced with a lack of spousal control because the spouse has a shield, they target the shield. This results in many cases of men, in most cases, crossing those lines and boundaries.

M(AST) 20N conceded that frustration comes from the perceived or an actual lack of control. He did qualify that sometimes, no matter how well a lawyer communicates with clients, they do not want to hear what the lawyer is telling them. Consequently, they may get defensive. To him, communication is key – lawyers must explain the process, provide groundwork on realistic expectations of the case, and document these discussions, notwithstanding many may have “tunnel vision” when it comes to personal matters. Sometimes, no matter how much a lawyer informs his or her client, frustration and aggression may ensue due to individual personalities, or personal agendas, or powerlessness. Many will aggress in an effort to regain or maintain or develop some measure of control. Thus, M(NST) 9Y posited that harassment and intimidation may seem like acceptable ways to try and pressure resolution of an issue.

M(EST) 8Y opined that stepping through the retainer process with a lawyer requesting his or her advice put clients in a dynamic much different than others who may be engaged with legal aid. For example, legal aid clients, according to M(EST) 8Y, may not, in some cases, adhere to advice and expertise when they are not paying for it. If legal aid clients are dissatisfied, they will often fire and then seek out another legal aid lawyer, whereas a client who has initially paid \$5,000 to a lawyer for her or his advice will have more at stake in what the lawyer has to say. Therefore, if a lawyer is not spending much time working on the client’s file, neglecting to communicate in a timely fashion, or is not bestowing upon the client answers he or she wants, then frustration can lead to aggression. Without reserve, M(EST) asserted it is simply a breakdown of communication. Similar to other interviews, M(NST) 28N also agreed that there is a lot of frustration when individuals are involved in the legal system fraught with extensive and complicated processes, exacerbated, in many cases, by lawyers who do not return phone calls.

One mediator in this study (M, EST, 33Y) cited Sigmund Freud and his book about civilization and its discontents. Lawyers are the vanguard of disputes, and people who are in disputes are looking to someone or something to revenge or take out their anger. He further explained that:

. . .when you are the lightning rod for the problem people will translate their frustration and their revenge and confusion to the advocate. So it’s more of a psychological issue than anything else. . . I think it’s very psychological and the problem is that we don’t have a justice system, we

have a legal system, so I tell people in my mediation, “If you want a justice system you have to put in other things, like your values.” I ask everyone, what values do you live by? What spiritual – or what are your human values that you live by and would you like to apply them here because if you don’t apply them here for your justice, you’re going to be stuck with a legal system that is secular.

He questioned how issues can be possibly solved in an adversarial system, so clients must be given the options to mediate. Many other interviewees made the same claims. It is an adversarial system, so M(PST) 11Y expected this philosophy will inherently bring “fights” to the table. As well, M(CST) 40Y asserted the adversarial system tends to increase the level of conflict and assertive behaviour, certainly not a great way to resolve argumentative issues. F(PST) 14N and F(PST) 18N concurred that frustration, hostility and aggression occur in the adversarial system, which F(PST) 14N pointed out, happens when people have little or no control over matters. To her, even purchasing a house can cause frustration. F(PST) 18N expanded on the adversarial and frustration nexus:

With regard to why litigants get so frustrated with the system is I wonder if there are categories of litigants. If we are talking about people from different countries, if they are frustrated with our system because it is a new one and they can’t understand why they can’t do the things that they were previously able to do. I wonder if people have become more litigious and more inclined to go to court compared to a time when that was something that one did not do so readily. So, I wonder if that has something to do with it because if you are more apt to go to court you get frustrated because court is frustrating. There is kind of no way around court being frustrating. It is just frustrating. We come up with all sorts of ways to try and make things better. For example, if you look at things like family law. Say 40 years ago. We didn’t have this, because women just got kinda burnt. Guys would leave and you got some maintenance, you were lucky. Now, we have all these rights which just increases the whole demographic of people who are using the courts and they know what their rights are and they are pissed off because they are not getting what they think they should be getting. Or why is it so much work for me to just get something I should have.

M(PST) 3Y relied on the assumption that frustration levels are increasing globally whereby this phenomenon is not only exclusive to lawyers. He reiterated how the legal process, however, can elevate frustration – from the moment people pursue issues, believe in their arguments, retain a lawyer, argue for what is perceived as theirs, and subsequently confront the legal bills – which can lead to unacceptable behaviours.

Clients will assume that lawyers are authorities for power, according to F(PST) 7Y and F(PST) 6Y, so they will automatically surmise lawyers are to blame for all that is wrong with the system. Because clients are often in contentious disputes before they enter a lawyer's office, they are already in conflict mode, so when confronted with stakeholder matters such as money, family or property, frustration and assigning blame to lawyers may develop. Concurrently, F(EST) 12Y reiterated the importance of adopting the practice of client review on how the legal system functions, because if lawyers eventually are put in situations where they continually fear for their safety, they may switch to different careers. As such, the long term impact of aggression is significant because it is, in a form, thwarting access to justice.

Approximately one-third of participants felt violence can occur because of the way lawyers are perceived in society as a whole, although two lawyers (M(PST) 37Y and M(PST) 23Y), vehemently denied there is a lack of societal disrespect for lawyers. In general, there is a misconception about lawyers' roles in society, with what they can and cannot help the public, and overall what a lawyer's job really is. For example, M(MST) 26Y claimed people will assume that the issues lawyers argue in court on behalf of their clients underpin the lawyers' own thinking and personal beliefs, so lawyers get tarred with the same brush so to speak, especially for defence counsel who defend individuals accused with what the public considers heinous crimes. An idea confirmed by F(PST) 6Y is that lawyers and the government are thought to be malicious. In many criminal cases, accused persons and/or family members may behold lawyers somehow intrinsically associated with the penalties being imposed upon the accused persons and perceive the system "closing in". Such belief, F(MST) 11Y advanced, is certainly evident in criminal and family cases, especially if the judicial decision that finally results seems unfair. In family cases in particular, where the judge is splitting assets, almost invariably both parties are unhappy. They are disillusioned with the decision, the system, the money spent and especially with the lawyers who are seen as part of the system. In her words, lawyers are seen as "a necessary evil" who are a mistrusted in society. She went on to clarify that:

When you're in court and you don't even know how the procedure goes, it's quite terrifying [for clients]. It was terrifying for me [even] as an articling student to be in court and not knowing how to do things. All of these things were very confusing and it must be ten times more so for a

client or unrepresented party. I think some of them are aggressive because they're so unhappy with the litigation that they're in, but I think part of it too is that the lawyer is someone in the know in the system and they don't understand the system.

According to M(AST) 20Y, lawyers are ranked with used cars sales people in terms of honesty and integrity. The derision with which most people treat lawyers is expected, given that the public image of lawyers as crooks and thieves seems to be pandemic. Most importantly, pursuant to F(AST) 2Y's opinion, there is a distaste for lawyers at the outset, certainly garnered by general opinions that lawyers are snobby, expensive and self-righteous. Somehow such beliefs legitimize aggression against them. She confessed that lawyers are definitely expensive and understood why people get upset with such costs; however, she also argued that attached to those expensive retainers is a sense of client entitlement that they can inflict harm on their counsel in whatever form they want. A criminal lawyer (NST) 30Y further claimed that because people are only involved with her when something bad has happened in their lives, when they meet her she is the embodiment of all the wrong things that has happened. M(PST) 11N hypothesized that aggression against lawyers will increase because respect for lawyers is quickly diminishing over the years. In his opinion there are basically three types of people – first, people who are occasionally going to get “pissed off”, so they are the ones who are never going to desist – they may feel less restrictions than in the past, or they may feel more justification in getting annoyed. Second, individuals who are the “crazy people” – society is never going to be able to do anything about them. And third, there are the “real bad guys” – gangs and chronic offenders. In his view, individuals with mental health issues or warped perceptions, gangs and chronic offenders are those who pose the greatest risk.

F(NST) 30Y inferred that the reasons the Nazis were so successful in “exterminating the Jews right under a lot of good people's noses” was because they had for ten or fifteen years beforehand successfully demonized Jews by commencing with very mild forms of criticism and abuse, and then escalating the commentary. People generally do demonize and depersonalize lawyers right from the outset when they would never tell homophobic or African American jokes or comment on politically incorrect issues, but, without conscious, feel little restraint to recite lawyer jokes. In a world where one cannot say anything about persons of colour or persons of the opposite gender or persons whose sexual

orientation is not yours, people still feel free to satanize lawyers. So consequently, when one portrays lawyers in this light, one takes away their humanity, and it thus becomes much easier to further denigrate in other ways. M(EST) 15N also conceded that society has a negative perspective of lawyers, viewing them as either privileged or rich or arrogant. Further, he also implied that the way individuals tell lawyer jokes depersonalizes lawyers to a point that “frees people and lowers their inhibitions” because, in their mind, they are not really dealing with a “real person”. In fact, about eight lawyers in the interviews mentioned lawyer jokes as the foundation for lawyer denigration.

People just hate lawyers right from blastoff, according to F(PST) 4N, and in her short career, she surmised that it is publicly acceptable to hate lawyers. Such belief hints at being widespread, generally agreed upon, and justified in society because of a general depreciative consensus. She found her occupation can pose problems, certainly when attendees at social functions begin to make malevolent remarks when they find out she is a lawyer. She deplored the fact that “even though they know nothing about me, they don’t know the type of person I am but they just assume [I am] an awful person and [I am] trying to cheat people out of money”. She recited a story about a friend who is also a lawyer who actually lies to people she meets at cocktail parties by telling them she sells shoes for a living! According to F(PST) 18Y, the level of civility in society is eroded, reinforcing the idea that swearing, yelling or threatening lawyers is copacetic, whereas 50 or 100 years ago such behaviour was generally unheard of, even though the role of the lawyers has not much changed. In her view, in today’s society it is now considered tolerable to malign and violate lawyers.

Along the same lines, M(PST) 16Y said there is a social hatred towards lawyers. He believed that popular culture is obsessed with lawyers, as evidenced by the proliferation of television shows and Hollywood movies about lawyers and the justice system. In his mind, people are obsessed with, but do not understand, the “whole netherworld out there”, which they solely interpret through television and movies. And in his opinion, clients often hate other lawyers who they consider to be crooked and dishonest, except for their own lawyer who may be thought of as a paragon of virtue. In some cases, many authors of aggression are the conspiracy theorists – people who have threatening behaviours, distrust the system and view lawyers as part of the

conspiracy. In their minds, the system is taking advantage of them in some deceitful manner by judges, lawyers and police, consequently resulting in distrust and hatred. He told a story that occurred recently:

I had one altercation with a lady a few weeks back where outside of the courtroom, after we finished, she was in the elevator with me and while I am in the elevator with her, she says, "I fucking hate people like you". People like me? Now I am so used to it, I just say, what do you mean people like me? And she says, lawyers, you people fucking ruined my life and I said, how have I ruined your life? And she said, not you, but people like you. My brother is a fucking lawyer and I hate his guts. I said to her, lady, switch to decaf – I told her to do, – which totally she blew up and went bananas outside and had to be restrained because I told her to switch to decaf. She said that I was accusing her of being a drug addict. She was just looking for a fight with me. I haven't seen that lady since.

He went on to say that he encounters all kinds of hatred – one lady constantly calls him a thief and a liar in court and a fraud, and claims that everything he says is a lie. He is aware of many situations where family law lawyers have found themselves with disgruntled clients who threaten them afterwards and restraining orders have to be taken out. Further, criminal defence lawyers often encounter these kinds of problems, where clients have retained lawyers, received legal advice; and then for whatever reason, they will turn on their lawyers by reporting them to the law society, joining them as defendants in a law suit, or adopting other refutations.

M(PST) 19N confirmed that he is constantly wary of clients and lay people having a biased view towards lawyers because of television programs and the general negatives about the legal profession. And so to him there is a general bias, a negative narrow-mindedness about lawyers and money. Many times in the last five years in particular, he has made a point of asking individuals why they harbour these negative views. [NB: No answers were provided in this interview]. Currently it is his plan to explain to clients the profession's obligations that lawyers have in society, so they are better informed. He concluded his interview that lawyers who are less ethical or are not meeting ethical standards damage the legal profession's reputation.

Overall it is just a reflection of society, and as M(PST) 3Y suspected, the degradation of society as a whole will get progressively worse over the next decade. F(CST) 25Y concurred and in her guess, she detected a trend upwards for

aggression, with more reports of incidents against lawyers over the years. She deemed there is a greater propensity towards acting out with aggression, all along the spectrum, and at the same time, the esteem to which lawyers have been held in the past is declining, so legal practitioners are not seen as belonging to a once-held honourable profession devoted to the public good. Now, lawyers might be targeted for something that is seemed to be wrong with the system. And so, marrying these two hypotheses – aggressive tendencies in society are trending upwards, and the decline in societal civility and respect for lawyers is spiralling downwards – may be the cause. She found the most disturbing trend is aggression perpetrated by her own clients, certifying that when opposite parties are upset and acting in aggressive ways, for example, an accused against a prosecutor, when it is turned inwards to their own lawyers, then it is more insidious and increasingly difficult to detect. There is a mistrust of authority or belief that a back room system exists, according to M(CST) 29Y, a Provincial Crown Counsel, and that things are done for ulterior purposes. People are becoming more distrustful of government and of authority in and of itself. With inquiries, bad cases and contentious results that are handed down, people are becoming unconfident of the system as a whole. M(MST) 15Y advised that:

I think that what happens is that people are not used to it, they don't have a lot of other resources, who are backed into a corner and are confronted with the raw power of the state. They are told they have to do something or they're told that something is going to happen and they realize that they're helpless in the process. There is nothing they can do. They have lost or they are going to lose. They've been told they're going to lose. The response is what they perceive as violence to them and their rights – not to their rights, but to their interest, is to respond with whatever force they can muster. All they can offer at that point is the threat of violence, and to some people that seems appropriate . . . I'm going to kill myself and take you with me.

F(CST) 30Y posited that there is a generalized discourtesy in society that has occurred. Having acted a duty counsel for many years, she has experienced declining civility for many years now and increasing abusive gestures. M(CST) 23N agreed that there are certain underlying attitudes in society – a disinclination for any real dialogue and debate, the after-effects of which may place lawyers at a disadvantage where they are disparaged in society. M(CST) 7N and M(NST) 9Y also recognized that there is a certain amount of negativity

and lack of respect associated with the legal profession, leading to frustration and escalation of aggression.

Pursuant to the victim precipitation theory, approximately seventeen lawyers discussed how behaviours may impact aggression, although two lawyers disagreed with this construct that lawyers' behaviours may influence victimization F(MST) 11Y and M(PST) 37Y). For M(EST) 8Y "lawyers suck at dealing with clients" – some lawyers just do not have the skills to deal with other people. He explained that he works with four specific women who have very strong personalities, and in fact, he confessed, "[he] wouldn't mess with them". As well, the women project themselves as confident, knowledgeable and educated, attributes that may antagonize some individuals. On the other hand, F(MST) 22N, an holistic lawyer with a mainly Aboriginal client base, pressed the need for mutual respect, and conducted her business in a way that hopefully prohibits people from engaging in aggressive tactics. "If you go into a situation and you act as if you're somehow queen of the world and they [the clients] are nobodies, then I think explosive situations can arise out of that". M(CST) 33N also practices holistically. He commended his great people skills, honed by his work experiences prior to law school and his compassion for people. He admitted that there were lawyers practicing in his community who he would like to threaten – lawyers, he argued, who act in terrible ways. When lawyers are dishonest or indirect with clients, they will encounter problems. He practiced a direct approach – if clients are unhappy with what he can do, then he suggests they contact someone else. He also reflected on a time when women were first entering law schools:

First of all, I was beginning in law during a time that a lot of women were entering the profession, and I think that's a great thing. I'm a feminist from way back, and I thought that was a wonderful thing. Instead, what I saw in the early days was that a lot of the women that I knew from my early days were taking on aggressive, masculine traits to be one of the boys. There was this aggressive, masculine culture, certainly when I was beginning in my law career, which was "take no prisoners" and all that kind of stuff. I was in a law firm where our whole ethic was really high integrity. We were able to say to clients that, "We won't do this." Nowadays that's harder. People are much more hungry and there's much more competition. Law isn't a profession so much as a technical trade, I think, anyway. I don't think people stand for much these days. I think that clients may now also find lawyers who are willing to do things that are unethical. If so then they're very angry at lawyers who will not do what they're told.

When lawyers are aggressive, they are not showing any empathy or compassion, notwithstanding their intent may be to advance their client's position (M(MST)14N). He pointed out that because lawyers are advocates, however, it is very hard to champion for a client and, at the same time, be sympathetic to the other party's standpoint. F(AST) 10N has always tried to treat people with some dignity. She qualified that lawyers who advance an adversarial approach may at times be somewhat respectful of others, but contrarily, she has always attempted to make a conscious effort to be pleasant to people, to not be overly-aggressive, except perhaps in a courtroom setting when she may need to take a slightly different course of action. She considered herself one of those legal practitioners who is not too assertive or belligerent. M(AST) 23N explained his tactic for remaining aggression-free. He has witnessed over the last ten or fifteen years a tendency for judges to retain a calm and soothing courtroom demeanour. For example, if a person was talking in court while sitting in the gallery, the judge's passive-aggressive response would be suspend the proceedings momentarily, look at the person in the gallery who is the only one left talking, and then quickly reconvene. This method, he discovered, added a certain level of calmness in the court. He reported his lawyering demeanour as follows:

I am sensitive- I recognize perhaps a little more than many people, what reaction you're going to illicit if you're a little too aggressive. And there's nothing wrong with being aggressive. But I think if the sense is that you're straying out beyond that too far, then they see that as a personal. It's not like you're doing your job anymore, you're going beyond it. And I think that bothers people. At this point in time, maybe they have a criminal record. Maybe they've had the family court involved. They feel targeted and oppressed. They're probably rightly targeted and oppressed. And there may be that tipping point where they've had it, and I think that's where aggression comes from. It's either that, or it could be impulsive, where they just lose their temper. It's just another reaction to too much stress. Not necessarily unfair stress, it's just too much stress.

M(EST) 15N adopted the tactic of settling legal issues quickly, in order to "keep the heat down" between his people and opposing clients. As well, when M(AST) 16Y is nice and polite, he will generally get positive results than if he is belligerent and angry. He told a story about when he was in private practice. There was one particular lawyer in the firm who was very aggressive, who usually attracted clients who wanted a "take no prisoners" lawyer. He always saw them as "a relationship of whirling dervishes". If clients are aggressive, and

they want their lawyers to adopt this stance, then the lawyers' job would be to reframe that dynamic for them, because if not, it would be seen as inviting that relationship to continue. Although lawyers contribute somewhat to their own victimization, he maintained, some lawyers who do not stand up and pound their chest and say, "I'm a great person and here's my ego, and look what the ego has landed," are perceived perhaps by some clients as weak. In addition, M(AST) 23N posited the reasons that animosity is there against the profession may be self-generated, a consequence of both the nature of the people the profession attracts, and because the practice of law has become "uglier". Of course, it is magnified when certain aspects of a lawyer's personality are not "turned off" – when lawyers cannot stop being lawyers both in their professional and private lives. He wondered "if maybe not being able to turn off that switch . . . if you cannot do that then maybe you've gone so far in your practice that you're overstepping what is necessary to accomplish your task". In his view, he has not seen many happy private lawyers, even the ones who are making money. He thought lawyering in some respects is a bitter life. M(PST) 37Y deemed that as well – a lawyer's role is not "angelic".

Simply, some lawyers are not very good at handling people, according to M(NST) 28N, so they have poor bedside manners and an inability to communicate well with clients, which of course can lead to frustration and aggression. He confirmed he knows a "couple of lawyers" who really need better social skills. As well, M(PST) 4Y knew lawyers to whom he would never refer clients or friends because they are too hard to deal with and are inept at client interaction. Obviously, there will be repercussions in terms of lawyers fighting "fire with fire". M(AST) 16Y confirmed that smaller provinces have smaller legal bars, so self-regulation works because you actually get the dead wood out. Lawyers can identify those lawyers who breach law society rules, so generally the competence or level of practice is higher, as is the civility amongst practitioners. In his opinion, when it is a larger group of people that self-govern, the task of self-governing becomes much more onerous, so larger provinces may have lawyers who are not vigilantly screened, resulting in some "bad apples" in the group. If a lawyer is speaking disrespectfully or condescendingly, then he thought that it is within the client's rights to be condescending and belligerent back, qualifying however that what the client should have done is fire the lawyer

and hire another one. [NB: Unfortunately, easier said than done!]. F(PST) 6Y affirmed that disrespect will garner anomalous feedback. She is not surprised that when a lawyer is acting dismissively and disrespectfully, and being a “jackass”, and the other party gets angry and starts shouting threats and obscenities, even if the lawyer gets “punched for calling someone an asshole”. M(CST) 15Y witnessed some prosecutors in court assuming confrontational attitudes towards the accused, claiming that certain prosecutorial stances tend to increase the chances that the accused may lash out. Given this assertion, he further stated that:

A lot of lawyers may get carried away with the adversarial role that they’re in and unintentionally through their vigorous defense or prosecution of a case, may tend to rile other people in the courtroom, witnesses, or other parties to the action. For the most part, it would be completely unintentional, but you can certainly see that happening.

Further, F(CST) 30Y witnessed Crown Counsel being deliberately obnoxious and horrible. In her view, there is no excuse for such behaviour, and prosecutors should know better. Nevertheless it is an “old trick” used by many prosecutors – get the other side to blow up so they can win the case. They may have a witness or accused person on the stand, needle him or her until they “blow up”, which tactic will often effectively win the case for the Crown. F(PST) 18N advised that her colleague has received terrible aggression due, in part, to her courtroom demeanour. Her colleague is very aggressive – “in one’s face aggression” – and because of this style she has received a tremendous amount of hostility. The underpinnings of such behaviour may be a loss of congeniality and a real waning in professionalism and teaching. F(EST) 12Y endorsed that, due to a complete lack of proper teaching in law schools around professionalism, ethics, and ethical dimensions of conflict, law schools are ill-equipped in providing knowledge to law students to the realities of legal practice.

Contrarily, M(PST) 23Y justified incorporating extremely aggressive tactics in hearings. In his words,

When you are really at someone, they can get really angry with you because you are the one who is taking them apart, right in front of a crowd. In the heat of the moment there is only one guy who is really making your life uncomfortable and it is not your boss – it is the boss’ mouthpiece who is asking you these tough questions. I am quite antagonistic in hearings – I am going at them hard. I mean I come at

them deliberately hard. And that is part of my job – I was actually yelling at a witness on the stand.

Approximately fifteen lawyers emphasized that aggression stems from people who have mental health issues. Some of the interviewees in their discussions referred diplomatically to individuals with mental health issues (e.g., “diminished capacity” “mental illness”, “substance abuse issues”), while others were rather derogatory in their criteria (“considerably deranged”, “crazy people”, “wacko”). F(MST) 11Y and F(MST) 26Y opined that there are indeed individuals with mental health issues who are involved in atypical behaviours, with F(MST) 26Y corroborating that people with personality disorders are mainly the sources of concern, because many of them are dangerous men. M(CST) 40Y also agreed that some individuals may have mental health problems, while others grapple with anger management and a seeming tendency to assail against women. In his opinion, violence against women is escalating in society, with many men employing anger and control issues over women. M(AST) 30Y postulated that a combination of ignorance, lack of intelligence and possible mental illness on the part of some people many lead to a lack of understanding of conventional norms. Most of the aggressive behaviours tend to be from people with diminished capacity (M, NST, 28N), or else mental illness combined with alcohol and/or other drugs. M(PST) 20Y concurred as well that threats or aggression may occur with individuals who have substance abuse issues, along with some impulsive or violent tendencies. M(PST) 37Y said that people who have expectations “pretty far off reality” may become offenders. And the lawyers are the nearest figures to express their frustration.

F(PST) 3Y, who acknowledged two examples of year-long verbal and written abuse in her three-year call, confirmed that the perpetrator in the second instance was diagnosed with bi-polar disorder. In her opinion, abuse stems primarily from those individuals with mental illness issues who are unaware of what is or is not socially acceptable behaviour. F(PST) 7Y also confirmed from her experiences that aggression tends to involve people that are severely economically underprivileged and often with untreated mental health issues. In her view, they concentrate on lawyers and the courts, focal points for their grievances and injustices.

Approximately twenty percent of participants confirmed that people do not understand the legal system, which generates feelings of powerlessness from this benightedness. M(MST) 14N has encountered so many clients who do not understand the legal process, and his suggestion is that lawyers, for their clients, need to explain the possible range of outcomes, the time frame, and the costs involved so they get a clear understanding of the courses of action. To many people, the legal system is fraught with uncertainties with regard to the process, legalities, language and outcomes. As F(MST) 11Y clarified, the process is “foreign”, or as F(CST) 17Y described, “there is a high degree of frustration because it is a jungle out there for people who don’t know the system”. Often one is frustrated when dealing with other challenges as well, so their threshold levels for frustration may be lowered when entwined in a legal battle. A lot of people are developmentally delayed, according to F(CST) 30Y, and for many, frustration is heightened when dealing with the justice system. She gives individuals who have evident mental health issues much more leeway when they display frustration. M(CST) 7N stated that “there’s a perception that sometimes if something has gone wrong that lawyers can fix it, and that’s so far from reality. Lots of times it’s about mitigating the loss, but it’s not about fixing things”. F(EST) 12Y reiterated the importance of reviewing how the legal system functions.

Using his “armchair psychology” approach, M(PST) 7N opined that when individuals are faced with a system that is binding, sometimes it is hard to penetrate the rules, so they misunderstand the procedures because it has not been clearly explained, thus invoking disempowering sentiments. Finding it difficult to navigate through a complex system of rules and regulations, and encountering lawyers who communicate poorly, may force some individuals to respond atypically in pursuit of empowerment. Clear communication in layperson’s terms must be something for which lawyers should strive when meeting clients. M(PST) 36N recognized the power imbalance when people do not understand the process and have no idea of what the law is about. Many have a total misunderstanding of the entire system and how the constitution works. F(PST) 29Y posited that power imbalance underscores aggression against lawyers, giving lawyers the power because of their knowledge and expertise. If one is unable to understand such knowledge, then it is much easier to use the tools one does have available such as physical or verbal retaliations. Therefore, if

lawyers take the time to communicate and explain the legal process, clients will hopefully better understand what they need to do to reach their objectives. As well, F(PST) 4N confirmed that aggression is caused by a lack of understanding about how the legal system works. Unless you are a lawyer, understanding the legal system is unavailable to many laypeople.

In sum, F(PST) 3Y, who is three years into her career, received two horrendous cases of verbal and written aggression, each of which lasted for approximately one year. For one of the cases, she sent this researcher a copy of the hearing transcript for application to dismiss the complainant's action, in which it described some of the complainant's written and verbally aggressive comments from the lawsuit's inception. Quite frankly, it was shocking. Due to a power asymmetry between parties and lawyers, in many cases people may be intimidated by the fact she is a lawyer. Her closing comments in this interview were that she is amazed in social situations when people's attitudes toward her change when she reveals her occupation.

Lastly, seven lawyers were willing to discuss billing pressures and unethical billing practices. In M(EST) 33Y's view, there is a need, as a profession, to provide options that reduce the human and economic cost of conflict. One of his biggest complaints is the legal system, not the justice system he emphasized, and the issue of billings. The legal system is inculcated with greed, and lawyers need to change that philosophy, certainly in Toronto-based law firms, in his experience, where the main mantra is to bill. Quoting Rudyard Kipling, who said "the two great impostors in life are success and failure", M(EST) 33Y bemoaned that "90% of human endeavour is negotiation and 90% of law school is adversarial". F(CST) 3Y suspected there are billing issues in law firms – not so evident in smaller firms where they do not have the same high quotas – but certainly in big firms where it is a seemingly impossible task to meet billing guidelines. For example, her colleague works in a large family law firm where she bills 1800 hours per year, a ridiculous and herculean task to say the least. She knew of other lawyers who bill even more than that each year, and she questioned how it is even possible. In her mind, it is at this stage in the legal process, when the bills arrive, that lawyers may become targets. M (PST) 36N confirmed the momentum for billing in the big firms is savage. Many firms expect their associates to bill 1800 hours a year, a gruelling schedule to which

lawyers must abide. M(AST) 16Y also confirmed that friends working in large Toronto law firms have 1800 hour per annum commitments, with many firms storing beds so students are able to work all night if necessary. And in many cases, junior associates will work to the bone because of partnership objectives, only to be told that it will not happen. So, after working arduous hours for four or five years, they are told that because of financial cutbacks, or the time is just not right for the firm, they are given the “golden handshake”. In the meantime, as M(PST) 36N explicitly claimed, these guys have “gutted themselves” to the point where they are literally worn out, but at the same time, they do not have a huge amount of skills because they have been too busy with the bottom line. This type of firm mentality forces people to think about cutting corners, and although many associates do not start thinking about cheating clients, it is all about the billable hour. They may begin by putting down one hour for time worked on a file, rather than the actual time of one-half hour.

M(PST) 36N relayed a story of his friend whose husband was worth six or seven million dollars when he died in 1982. In January, 1983, the markets fell and the economy was a mess, so by the time the estate reached probate, it was only worth about three or three and one-half million dollars. The widow was a good friend, but she had retained her husband’s business firm to probate the estate since the firm had always acted for her husband on business matters. About two years from the start of probate, the widow asked M(PST) 36N to review a bill for \$25,500 that she had received from the law firm handling the estate, inquiring whether he thought the bill was reasonable. He reviewed the items listed on the bill and said that it was probably slightly higher than normal but considering the difficulties with the estate, not unreasonable in the circumstances. She replied: “no, no, no, – this is the third bill – I have already paid them \$55,000”.

Lastly, M (PST) 36N told this story around the time hourly billing was initiated:

I had an interesting conversation with one of the most senior members of the bar one year when I was up in the boonies doing an inquest, and we were talking about this. He said, well here I am, senior member and a Q.C. etc., but they just went to a form of hourly billing and at the end of every month, of course, the results come out and everybody in the firm can see how many hours you billed and therefore what you made and he says that it is a bloody whip. I find myself going in on Saturdays and whatnot, you know, just to make sure those hours are being looked after.

He said he had to worry because he had a junior come in and he was reviewing a bill for an appearance in Chambers and the bill for was four hours, ok. And he asked what took you four hours, because it was just a consent in chambers, so it was just getting there, consents done up front, so waiting until the end of the day and all that stuff. The junior said that is the standard charge – anytime we go we charge that amount. And so the senior asked, how long did it take you. And the junior said, well, about an hour. So, there is three hours.

Alternatively, two lawyers supported billing practices and refuted any clear links to aggression against lawyers, but asserted the directive to be clear upfront with clients about the potential costs involved in a legal matter. F(NST) 30Y did accentuate how lawyers are not great communicators to clients how the billings are allocated over the long run. As well, lawyers are not very good at communicating to the client “that ‘God’ does not excel at sending pay cheques every two weeks”, so there seems to be a prevalent misunderstanding that lawyers must live off their billings. In many cases, law firms are inadequate in precisely setting out the goods and services in a clear and concise manner, which may stem from a holdover when it was supposedly a “gentleman’s occupation”. And of course, up until twenty years ago, lawyers did not charge all that much, but now, lawyers are horrifically expensive, according to her, and are forced to charge more due to the amount of legal work needed for relatively minor applications or hearings. So, from a business perspective, office expenses must be paid – associate’ and legal assistants’ salaries, telephone and photocopier bills, insurance, leasing costs, and so forth. In the end, after-tax dollars and after business expenses have been paid, a lawyer may only profit \$20.00 from a \$300.00 bill. M(AST) 20N, in the same turn, made clear that awareness and understanding from kickoff is absolutely essential when lawyers are dealing with billings. For the most part, clients under-value their legal services, for a result that may or may not be what they expected. The lawyer must go through the exercise of detailing how the bill was constructed, how the lawyer’s time was allocated, and so on. In his opinion, law societies are quite vigilant about lawyer’s billings and managing trust accounts.

SELF-REPRESENTED LITIGANTS

A topic of interest to all participants is the increasing amount of lay-persons taking their cases to courts, hearings and other proceedings without the assistance or guidance of lawyers. Overwhelmingly, all but four interviewees discussed this issue, some in great length, and most confirmed the enormous problems the courts and legal personnel encounter when dealing with lay litigants. Because of the costs involved, many lay litigants are actually forced to administer their own cases to the detriment of the court, opposing parties and legal officials. Lawyers are extremely expensive, and M(MST) 14N admitted that suing someone would be a tough decision even for him to make because of the costs involved. Indeed, a conundrum surfaced that thwarting individuals' access to the legal system because of costs, which most people are unable to pay, may cause stress, frustration, and possibly aggression. Without governing bodies that regulate behaviour, lay litigants are unfettered in releasing frustration and aggression against officials. Notwithstanding, there are individuals who can afford to retain a lawyer, but their personal worldview may be that lawyers are untrustworthy and crooked so they assume cases on their own. They may disparage the value a lawyer could bring to their side in the belief they are more capable than lawyers to handle pressing, personal matters.

Almost 95 percent of the participants recounted the difficulties legal officials must face when dealing with self-represented individuals. Discussions ran the gambit when interviewees were discussing lay-litigants, and samples listed below reflect the general opinions expressed by participants. The most common themes discussed by interviewees on this topic were that judges will often make special efforts to assist lay litigants, a reality in the present court system, and do so because people are entitled to a fair hearing. Secondly, self-represented individuals clog the courts with inadequate knowledge of the system and its process, take an inordinate amount of time in proceeding before, during and after litigation, and cause opposing parties tremendous extra costs. Thirdly, with regard to the issue of aggression against lawyers, lay litigants often or have the potential to cause serious problems.

M(CST) 23N – “lay people can be tremendous time wasters and cost my clients a ton of money”

F(MST) 5Y – the courts are really indulgent toward self-represented litigants”

F(MST) 11Y – “the judges practically act for self-represented litigants”

F(CST) 10Y – “they don’t understand the process”

F(CST) 17Y – “they don’t feel themselves governed by any obvious professional rules of conduct, code of ethics, anything like that”

F(CST) 30Y – “often lay litigants are not officially crazy but smart like foxes and are clearly or slightly deranged”

M(EST) 34Y – “it is a big problem and the courts are struggling with it and I don’t know what the solution is”

M(MST) 26Y – “a lot of people who are self-represented are self-represented by choice”

M(EST) 15N – behaviour problems and language problems – people screaming “you are a liar, cheating liar, f_cking “a__hole, that bastard. . .”

M(PST) 20Y – “judges will allow lay litigants naturally a lot more leeway than they allow lawyers, so lay litigants tend to spend a good deal of their day wandering off and exploring areas that are really irrelevant to the case before the court”

M(AST) 30Y – “self-represented litigants can be belligerent and threatening”

F(CST) 17Y – lay litigants “tend to be somewhat marginalized within the justice system often because they have claims that are either not meritorious from a legal perspective or because they have some mental health issues”.

F(PST) 18Y summarized as follows:

. . .it makes it difficult to represent your client if you have a lay person on the other side. The judges find it very difficult – they are having to give out legal advice when they are not supposed to be doing that – matters are adjourned which becomes more expensive for my client having to show up in court where the lay person is constantly getting an adjournment because they don’t get it right [and] because they don’t have a lawyer. The frustration – I am sure the lay person experiences – because they don’t understand that they need to fill out the form before they make the application or they don’t have evidence. Very frustrating and I feel sorry for people who can’t afford a lawyer and have to come to court.

M(NST) 9Y, as a result of a lay litigant's passive/aggressive acts of filing three complaints with the law society against him, suffered a serious seizure at home one evening from the stress of dealing with these ongoing complaints. In addition, the lay litigant's actions hindered him from seeking a bench position. Aggression "goes hand in glove" with lay litigants, according to F(MST) 11Y, because they are difficult people with whom to deal. M(EST) 8Y, a federal prosecutor, usually takes special precautions when dealing with unrepresented parties by ensuring all conversations take place in open areas, arranging for neutral parties to witness the conversations, and calling over court personnel to take notes when he is speaking with unrepresented parties. As well, F(PST) 18Y confirmed that in her hometown, mediated case conferences, settlement conferences or pre-hearings with judges, are most often conducted in an informal manner in the judge's chambers or board rooms, except in cases that involve self-represented individuals. In those instances, matters are heard in formal courtroom settings because, according to F(PST) 18Y, the judges do not have the same level of comfort with lay persons. M(PST) 37Y always made allowances for lay litigants due in part to the fact, in the back of his mind, there is always the possibility that the lay person "could do something stupid". He confirmed that "I try to be careful. Sometimes you get a feel for it because of the behaviour, or what they say in court or even outside of court, and your antennae kind of tingle a bit". M(CST) 29Y also has received aggression in the form of nasty and insulting letters from lay litigants. He documents receipt of all types of aggression whether it is conversations, letters, or meetings. He felt that at some point there is going to be some penultimate act, some "proverbial straw that is going to fall". A short time ago an unrepresented party verbally attacked a judge by way of letters, campaigns and news stories. M(CST) 15Y expressed his concern about lay litigants. In his view, they are the ones most litigators worry about – they tend to be more assertive or aggressive and certainly are the individuals who would most likely "be in your face". Lastly, F(CST) 17Y admitted that she only feels threatened when dealing with self-represented individuals. She believed they experience high degrees of frustration because of the minefield of knowledge they must manoeuvre, a somewhat impossible task for many who do not know or really understand the system. As a result, their threshold for frustration and aggression may be considerably less than others

who have hired counsel. M(PST) 36N succinctly stated “self-represented litigants are a horror”. M(EST) 33Y provided examples of his specific dealings with a self-represent litigant who often made inappropriate and snide remarks when the judge was absent in court, so nobody could hear, or made extremely ignorant comments. The last incident occurred when two clerks were waiting for the judge to come in, so the self-represented took the opportunity to condemn M(EST) 33Y, by saying he was “going to get to [him]”. Certainly one of the major concerns is the Law Society has no rules for self-represented litigants, so when he consulted them about the problems he was encountering with this specific lay litigant, officials at the Law Society emphasized that as a member of the Bar, he must be civilized, even in adverse circumstances when the lay litigant is threatening him (within reason).

As well, lawyers expressed the barriers that the average citizen encounters when faced with legal issues. Ten lawyers in this study recounted the problems of access to justice for most lay litigants. F(CST) 10Y put forth the realities of the current legal system – people cannot afford lawyers, and the access to justice needs to be improved. The remainder who raised this issue concurred. M(EST) 34Y reiterated that “access to justice is a big problem, and it is bedeviling all the courts, at all levels”. He hypothesized that lawyers’ fee structures have made justice very expensive, and a society without accessible justice will lead to chaos. Access to legal aid is limited, and although there are non-profit organizations in communities that may assist lay litigants in human rights, family and criminal matters, access is still prohibitive for many others.

INTERNET

With the advent of the Internet and the rapid availability of legal information, is the general public increasingly seeking out information online to inform themselves on topics that in the past would have been relatively difficult or unwieldy to research? Certainly, reports circulate regarding how people are self-diagnosing medical problems by researching information on the Internet or seeking out other professional information that normally would only be provided if one spoke face-to-face with a specific expert. Nowadays, people go online for myriad reasons, so are individuals also self-helping to legal

information as well? One of the issues posed to participants is since the expansion of the availability of the Internet to most Canadian citizens, are existing or potential clients obtaining legal information from the Internet and as a consequence becoming more demanding, self-taught and perhaps intolerant of lawyers? When clients research topics on their own, are the results positive or negative? In this section, no discernible differences in interviewees' characteristics were evident.

In this portion of the interviews, 48 participants discussed this issue. A few of the responses were dichotomous in nature; in other words, many participants were glad but, at the same time, frustrated that clients had gone to the trouble to research beforehand. Many clients arrive with erroneous legal precedents that in some meetings require the lawyer to spend twice as long explaining how the research is wrong.

Along with the frustration involved with incorrect online research, 26 participants determined that a client's Internet knowledge can lead to intolerance or impatience with lawyers. F(CST) 17 felt that was generally true with most professional matters, whether it is law, medicine or engineering. In fact, some of the research, such as diagnosing medical problems, can be done quite accurately. The Internet innovation is something with which all lawyers must carefully handle, and sometimes it is difficult to recognize how much trouble someone armed with online legal information can be. M(CST) 23N is bothered if a client is absolutely convinced she or he can do a better job. When this happens, he suggests that the client move on and act on his or her own. At the same time, M(MST) 26Y has engaged in numerous debates, especially in the last ten years, with individuals who go on the Internet and then argue with him who is right and wrong. In most cases, the clients assume they are right, and the lawyer is wrong. When facing these types of problems, F(MST) 37 is accused of overcharging, but when clients challenge M(AST)28Y with Internet knowledge they believe is correct, he is ready to fire them as clients. One of the best pieces of advice from a time management course he attended when he was a young lawyer was to fire the worst clients, which he does on a regular basis. Again, M(NST) 28N found that the most problematic clients are those who receive legal advice from their friends, most of which is incorrect Internet knowledge fuelling their beliefs and understanding. This theme was echoed by a number of lawyers

– the worst clients are the ones who have friends, brother-in-laws or neighbours who think of themselves as self-taught experts. Occasionally, clients can be very specific about a lawsuit, who should be called as witnesses and so forth, all of which can be totally irrelevant, as M(PST) 20Y explained, and then arguments ensue. It may eventually happen that he must advise them to seek counsel elsewhere. F(PST) 7Y is convinced that as a profession, lawyers have lost their standing to a large degree in society, and in her mind, deservedly so. People do not want to pay for lawyers, so they figure the more research they can do on their own, the more they can hold lawyers accountable. This can certainly contribute in the long run to dissatisfaction and aggression that arises at the end. It boiled down to, according to M(PST) 16Y, the fact that many people assume that no one can represent them as well as they can represent themselves.

To the contrary, M(AST) 16Y agreed with this supposition but admitted that he abides these types of clients. He considered clients with legal knowledge can be a “blessing” because even if they think they have adequate, correct knowledge, it shows to him some initiative and insight. These are clients with whom he can work with immediately. F(CST) 25Y believed this topic resonated for her as well, but thought it revolved around personality dynamics and how lawyers manage and communicate with their clients. For example, if a lawyer is threatened by clients having some semblance of knowledge, then the problem lies with the lawyer, not the client. She explained that “you need not be threatened by clients who know some things, try to find what they know, and then in a more educative role, give them what you know and educate them more widely”. F(PST) 14N also confirmed education is the key – enlightening the clients about the specific steps that must be taken and the timelines so when it takes months for something to be filed, they are not annoyed with the lawyer. But, in some cases, clients will reject her advice, and in those cases she suggests they seek another opinion.

A few lawyers mentioned that their clients are fairly sophisticated so they already have a reasonably good understanding of what they are looking for or what needs to be done. For example, M(CST) 21Y’s clients are quite happy to delegate responsibility to other experts in the company who will review the work and liaise with counsel. Being in a “protected” position does help, as M(MST) 14N insisted, since he deals with business clients who are very sophisticated and

aware of legal issues. But certainly they will challenge him on certain points in question, and when they do, he must respond in a cogent and logical manner, since their legal knowledge is usually higher than most other clients. As well, M(PST) 11N considered himself in a unique position since most of his clients are very experienced business people who have their own internal liaisons with business experts, but in some instances, they may not concede to his advice in the belief their knowledge is superior. His interaction with these clients is far more collaborative than with other types of clients, a practice identical to M(PST) 7N's – working with in-house counsel who share equal legal knowledge.

Some lawyers generalized that the general public simply thinks they know more than they did ten years ago. M(AST) 20Y opined that instant communication with the advent of technology informs people so rapidly, bring a whole new dynamic to practicing law. In the last five or six years, his clients have become increasingly demanding than ever before, coinciding, in his opinion, with a public education campaign. For example, people start to believe they know more than lawyers and are reluctant to pay \$200.00/hour for legal services when they believe they can retrieve the same information on the Internet for free. And, similar to four other lawyers in these interviews, they cited “a little bit of knowledge is a dangerous thing”, because nuances and intricacies differ in each situation. F(AST) 10N concluded as well that clients are now more educated. She cited senior partners in her firm telling stories about how the practice of law was 30 years ago, when clients piously respected and listened to lawyers. In her view, the practice of law is dissimilar than yesteryears – clients are more demanding, less respectful and more knowledgeable – traits that M(PST) 11Y underscored is a result of a rise in literacy generally within society. At the same time, he revisited his parents' past, when people of that generation would never dream of self-representing a legal action. Individuals of that generation were inadequately educated and unconfident to dare try something such as representing themselves in court.

A few other lawyers considered internet knowledge a positive initiative. For example, F(EST) 12Y found that it is helpful when clients have done their research, except in cases where they decide to self-represent. For the most part, clients have incorrect ideas but at least they are asking the questions, according to M(EST) 15N, who encouraged his clients to “do the footwork” about how to

obtain and deliver documents and attend hearings, so they are involved in the legal proceedings. His philosophy is to position his advice in the context of the business decisions that his clients have to make, so they are prepared to make the hard decisions when needed. F(CST) 10Y found that clients with knowledge are easier to deal with than some lawyers in the field. As well, M(AST) 16Y tolerated clients with online knowledge albeit it might be incorrect information, which he must eventually realign. F(PST) 18Y and F(PST) 29Y also viewed this issue from a positive perspective, because in many cases a lawyer can converse comprehensively with clients who have some basic legal understandings from the research they have done. Arming themselves with useful information when they consult a lawyer can result in open-minded and fruitful discussions:

. . . the Internet overall is wonderful because it does give people, all of us, tools that we wouldn't otherwise have. And it is how you use those tools I think that makes a difference, so if you are using a tool to find basic information to familiarize yourself with something and then go and see a professional and ask the right questions or get guided in the right way, you are doing fine.

Interestingly, the people who do proper research tend to be more tolerant, pursuant to M(PST) 3Y's experiences, because they recognize that their legal pursuits will be arduous and expensive.

In sum, F(CST) 25Y analyzed what lawyers should do in our advancing technological society to foster a good lawyer/client relationship:

Take the initial time to try to build up a working rapport with them, but I think if you don't communicate well with your client, that can create some suspicion and some worry, and if the client thinks he/she knows as much as you, and you haven't done anything to really impress them about what you are doing for them, and you are sending them out a big bill, I think that really does make some clients unhappy and frankly I don't blame them so I think it really is about communicating well with your client and having your client feel that you are doing a good job for them, which does not always mean success in court.

GENDER ISSUES IN PRACTICING LAW

In light of survey results that indicate female lawyers may suffer greatly from the after-effects of aggression, it was important to canvass some of the gender issues that are prevalent in today's market in practicing law. In total, 48 participants

discussed this issue (F=22; M=26), but it must be qualified here that those interviewees who omitted discussing gender issues did so because of interview time limitations or the issue was not raised in their discussions, not because they felt this topic trivial. In all cases where interviewees refuted or disagreed with issues, they are reported here in this dissertation. Further, there was no significance of differences offered on this issue between each discussant – no glaring comments that pinpointed gender, years called to bar, region or receipt of aggression. Overall all respondents confirmed that gender, in various respects, is an issue in the profession, albeit mostly male lawyers underscored some of the aggressive tendencies adopted by some female lawyers. The general sub-themes ran the gambit in their interviews – from issues of female maternity leaves to sexual aggression by male lawyers. Each sub-theme will be discussed in detail.

Contrary to statistics discussed earlier in this dissertation that show gender has little relevance to receipt of aggression, many participants discussed aggression against female lawyers through the gender, rather than the lawyer framework. Further, they added that in many cases, female lawyers can be domineering in pursuit of their legal practice, which, they clarified is more in the nature of the influx of women into a previously male-dominated profession. For example, M(EST) 15N, a Bay Street lawyer, insisted this issue must be viewed through the gender lens to differentiate been gender-based and lawyer-based aggression. If someone called him a “bastard”, he would not interpret that as being an illegitimate male or gender-based, but if it was a woman and she was called a “bitch”, then she might take it as gender bias. In his view, missives are not specific to gender, but instead people use loaded words to hurt and denigrate, whether the victim is male or female. To him the issue was a matter of interpretation – one gender simply understands issues differently. M(AST) 20N also had heard clients describe the female opposing counsel as a “bitch” or other derogatory terms, but also had heard them use such unflattering *linga franca* equally against male opposing counsel. In his view, some people are sexist, others are prejudiced, but if someone is frustrated or in an uncontrolled rage, they will lash out notwithstanding the gender or race. In some cases, the victim and perpetrator are both female. M(PST) 7N highlighted an example when clients become angry or heated in boardrooms with groups of mixed gendered

lawyers, it is possible, in his mind, that women experience the confrontations differently than men.

In a communication sensitivity training seminar presented at M(EST) 15N's law firm, lawyers and staff were instructed on how men and women react differently in conversations. In one case, the seminar leader introduced the topic of "communication and interruption" – that is, "men interrupt each other and do not think anything of it, but women are much more offended and will stop talking if men keep interrupting". Attendance at the sensitivity training session is encouraged in his firm, certainly when the topics relate to male/female language and communication. Often, however, many senior male partners will often defer from attending. Perhaps they should re-consider their decisions, as F(CST) 17Y pointed out, many senior male practitioners are in particular quite condescending to women, and quipped that "there are some out there who still do not think there should be women practicing law, for goodness sakes". M(EST) 15N went on to discuss how some of the female lawyers with whom he works have made it, in his words "in a man's world", so many are very demanding and difficult, to the point where other female lawyers hate working as juniors for them. Some would rather work for male lawyers. He did clarify, however, that he has worked with great women, but one in particular at his former office was "absolutely terrible" to work with, and in fact he made it a point to forgo any dealings with her if he could. M(PST) 3Y was more blatant in his assertions about female lawyers. In his experience,

. . . women lawyers are far more aggressive, far more belligerent than the male lawyers, because they know they can get away with it. In my suspicions, I believe they think they can get away with it, where if a guy makes a comment that could be taken even remotely inappropriately to female lawyers, he can be very quickly trying to explain himself to the law society. So, if the male v. female lawyer in a negotiation, or whatever, it has been my experience that the male tends to be more cautious and more civil in their tone and choice of words than the females are.

Nonetheless, F(EST) 12Y said that female lawyers have to be stubborn, to be rigid, and in order to practice as litigators they must adopt these attitudes. She confirmed that female lawyers are seen as being difficult, along with other unflattering proprieties, but it is necessary, she opined, to survive as practitioners because of the juxtaposition of men of the same ilk being viewed as assertive and confident. Certainly there are gender issues at the end of the day,

especially when a female is trying to be a lawyer and an able one at that when, at the same time, she is being personally attacked. It is a tough way to work, and as she admitted, it would just be easier to walk away. M(PST) 16Y saw women getting “pushed around” more than men because of the whole size factor. However, there are many very aggressive women practicing because they realize that to compete in the market, they must have the right demeanour. He mentioned one “bulldog – tough as nails” woman in particular who adopted this stance because her clients expected that of her. But overall, he found, women were not difficult to deal with, and in terms of equations, men outnumbered women two to one in difficulty ratings.

M(MST) 26Y proffered that most lawyers are “type A” personalities, and there is still a “macho” image that exists amongst them. M(CST) 15Y also coined the word “macho” when referring to particular men in society who may victimize young female lawyers versus a young male lawyer. If this is the case, then one could hypothesize that young female lawyers face a triple jeopardy – age, gender and profession. However, M(NST) 9Y confirmed that “most of the female lawyers I know are really quite confident and competent and knowing them. . . I just think they could handle themselves”. In M(PST) 24Y’s experience, the toughest group of lawyers he encountered were disproportionately female, due in part from past differences when both females and prosecutors did not earn the same respect from compatriots. Female lawyers, in particular, needed to be tough in order to earn respect. F(PST) 7Y confessed that there are days when she goes into court with “certain families and certain files in certain settings” where it is her purpose, which may require manipulating and antagonize somebody who has an explosive temper, to get the results she needs. She acquiesced that it is not entirely fair but said it is within the law. Female lawyers may be tough and confident, but at least they are not screaming and yelling at people similar to what M(PST) 36N has witnessed with male lawyers, who, in his words, “puff and rant to make themselves look bigger . . . it is like meeting a wildcat in the wilds”. Because of society and the fact that women have not really been in positions of power, F(PST) 29Y believed women are still seen still as the weaker sex, so there is a chance to intimidate and threaten. But at the same time, she conceded she has indeed met some pretty tough female litigators, but if

female lawyers are perceived as weak and unconfident, they may be more inclined to aggressive victimization.

Further, M(PST) confirmed there are misogynists in the profession who will treat women worse than men, treating young female lawyers with little respect. In this regard, F(PST) 29Y detailed her own experiences,

I went into law school and maybe one-third of the class were women, no maybe 25% and then it was 1/3 when I left, so we were still a minority to be sure, and many of my female colleagues, not just in [redacted] but elsewhere, as well as what you would read about as well as people you didn't know – would often complain about the derogatory comments made by other lawyers, especially older male, mostly male lawyers. You know, I got those too but I always looked at it as sort of a weakness on their part. It was something that I could exploit in litigation because they didn't think much about me which meant that they would underestimate me, and I also thought to myself, it is their problem if that is what they think, it is not me, it is them. But what I saw with some of my female colleagues was a chip on their shoulders. My colleagues would say, well, I didn't get this job because I was a woman, or that happened because I was a woman. I didn't think in those terms – in those gender terms, so I have always tried to look at things in a way that doesn't assume guilt on the other side, so if there was violence or there was a threat, it might have just gone right over my head.

F(MST) 3Y confirmed that there are male clients certainly in family law, who will, if a female lawyer is representing the female spouse or partner, perceive the main impetus driving the legal case as “gender-based” and not understand the appropriate framework on which it is founded – that is, it is a lawyer asserting the case, not a woman. Specifically in family matters, misconceptions arise about women having more rights with regard to children and other spousal contentions. She believed that in some family cases aggression in this case would be different if she were male. As well, F(PST) 6Y felt that misogynistic issues can impact employment hires and partnership goals. For example, she heard that in criminal defence law, in particular, when women defend child molesters or rapists who offend against women and children, the accused may harbour distasteful feelings against women and be less forthcoming with female defence counsel. One of her male friends who operates a criminal defence firm told her that when clients prefer male lawyers, and they do most often, it can be dicey in hiring practices when you are supposed to be more equitable in hiring, but your client base prefers men. It can become quite a

conundrum in employment equity. With the legal profession becoming increasingly women-dominated, in F(MST) 26Y's opinion, young female lawyers may be at higher risk for aggression. She also analyzed that because of the increase in female judges, prosecutors, and female lawyer power in the last twenty years, men are incorrectly sensing bias in decisions because of gender, rather than accurately concluding guilt by reason of criminal misdeeds. Again, assigning blame to gender, rather than guilty conduct or prosecutorial talents, plays into this delusion. Overall, gender is an issue in society, and as F(AST) 27 claimed, "it is not going away anytime soon".

In aspects of respect, M(PST) 20Y recounted a story about a female family lawyer who transferred her criminal case to him because she had a youth for a client and found that she could not in any circumstances, and after numerous attempts, deal with him or his father because they simply would not treat her with any modicum of respect. So, she resigned from the case, transferred the file to him, after which he had very few, if any, difficulties with the clients. He was twenty years older than the female lawyer and strongly suspected that age, along with gender, were the issues at heart here. The clients, in his supposition, did not take her seriously because of her gender, age and size (she was small). "One of the things", according to him is "you cannot separate from sexism is sizism". F(PST) 14N had clients ask for a male lawyer, because they believe the courts will take a different stance with male lawyers (or vice versa), but she works in a mixed-gender firm that can accommodate these types of requests. Although admitting this is dealing with the personalities of the clients, she did concede that it could also be simply clients who have gender issues do not retain her because she is female. F(PST) 18Y also upheld that new female lawyers with call dates of three years and under do not, in some circumstances, know how to handle situations, do not have a tremendous amount of experience and are seemingly more susceptible to aggression threats – than their seasoned male counterparts. In her opinion, the more experienced the female lawyer is, the less likely she is subject to atypical behaviours.

In the end, F(MST) 11Y was the sole interviewee who thought that gender does not make a difference in aggressive actions – it is the mere fact that the type of profession is vulnerable, not gender.

The issues of professional burnout, maternity leave, and benefits surfaced substantially in interviews with both genders. In light of significant findings that female respondents suffered more post-traumatic stress from aggressive victimization than male lawyers, are women leaving the practice of law entirely, changing to part-time status or moving to another area of practice? F(CST) 17Y affirmed that the profession is rapidly losing women at the three to five-year period, if they actually make it to that level, mainly because of the rigors of private practice. If they do remain, they may transfer to government or in-house counsel positions. Other factors as well may cause this shift. The profession is demanding, and certainly not conducive to family life, according to M(CST) 7N, who acknowledged there is a stigma that lawyers cannot work part-time and at the same time meet the clients' needs. Simply put, that is the practical reality of practicing law. In her articling interviews, F(PST) 7Y revealed that the questions being asked of female students in downtown Toronto law firm revolved around maternity leave issues. M(PST) 11N said the biggest problem facing female lawyers is maternity leaves. From the firm's perspective there are the costs of benefits, loss of productive lawyering and the onerous obligations on the rest of the staff. There is also a "very old school attitude" amongst a lot of lawyers about this issue. He imagined that if he was a female lawyer, he would not be bothered by aggression so much as the maternity leave issue. Admitting that it was unfortunate and very sad, he also heard that after the mergers of law firms across Canada and overseas, law firms in the Western provinces are now receiving instructions from their Eastern counterparts where the maternity leave policies are brutal. In his words, they are "ruthless, way more ruthless". F(PST) 7Y advised that the Ontario Bar and the Law Society of Upper Canada in its "Justicia Think Tank – Retention of Women in Private Practice" Report dated May 22, 2008 offered recommendations on the retention and advancement of women in private practice. F(PST) 3Y said there are huge issues around women who want to raise families, lamenting there are many lawyers who adhere to the "old school" mentality that you need to work 1900 hours a year in billings. However, with the increasing high associate turnovers, law firms are re-assessing the need for lawyers to have a more balanced lifestyle. M(EST) 34Y recognized the difficulties many female lawyers must face when confronting family issues. Many have invested so much in their careers, so they are unwilling in many respects to stay at home and raise children. Certainly in today's job market, female lawyers

may earn more money than their spouses so the decision to stay home and raise children can be economically disadvantaging as well. He has witnessed professions becoming increasingly dominated by women, so their earning capacities are elevated, thus making maternity leave decisions much harder choices.

Alternatively, M(PST) 4Y has witnessed an increase in female lawyers in government positions because of the security, benefits and great maternity leave programs. M(PST) 37Y's wife currently changed to a more restricted practice because in the past she encountered difficult, disrespectful clients. In her current position, she is treated with respect in her work. F(NST) 30Y charged that:

Why is it that women are over represented in government service and legal aid and not in private practice? Purely and simply in government and legal aid service we have all the rights as every other women in the workforce for things like maternity leaves and so on. And if you're out in private practice some of the young women that I talk with are having their babies and are basically – it's like the old days with the peasants and the field – you walk over to the side, have your baby and you're back picking cotton. It's basically the same for these women, six weeks tops. I have a woman lawyer friend who was able to achieve quite a lot in her professional life because her partner was such a great man . . . And then there's this whole business of "your kid is four and your baby sitter cracks out on you. What do you do? The accommodation is not there and I think that's where the gender issues are now. I really do consider myself first wave. I got past – I got my fellow women past "yes, we can do the job, too" hurdle and "yes, I'm perfectly competent. And, no, I'm not going to start to cry in the middle of the court case. I can say the word penis in front of two hundred people and not go bright red." I and my old gal friends got them past that one bit, now I think the second wave is more, "OK, I want a life now."

In conclusion, certainly females feel more vulnerable, not only in the profession but in society as a whole. F(MST) 5Y described an intimidating gesture by an opposing party who sent her a long Affidavit with actual blood on the first page. Disconcertingly is the story of the opposing man who told a young female lawyer (F, PST, 3Y) that if "[she] f—cked him around he would drive her out to the middle of nowhere, bury her up to her neck, and give her enough water so she could survive so that the animals could eat her alive". M(AST) 16Y summed up the realities of practicing law in a mixed gender environment. He is the only male in a twelve-person firm. If one looked at this twenty years ago in the context of law firms – a public law office that was predominately female – it would have been unheard of.

POSSIBLE SOLUTIONS

Participants were asked a series of questions about possible solutions to alleviate aggression against lawyers, or at the very least, suggestions on ways the public can gain a better understanding of the Canadian legal system, the roles lawyers have within that system, and the possibility of further education on civility for law students. Three positive remedies arose from these discussions:

1. Should awareness of aggression against Canadian lawyers be brought to the attention of law societies and the Canadian Bar Association?
2. How to transition from a law student to a legal practitioner, and
3. Legal literacy in elementary/secondary schools.

Bringing Awareness of Aggression against Lawyers

In light of some of the serious incidents lawyers set out on the survey and in interviews, respondents were queried whether this issue of violence, threats and aggression is serious enough to warrant concern and reporting to law societies and the Canadian Bar Association (“CBA”). Should awareness of this issue be brought to the forefront nationally so lawyers in every sector are at least aware that these types of anomalies are occurring? In sum, 55 lawyers responded to this question (M=31; F=24), with no noticeable differences in answers between males and females, and regions within Canada. The most common response was that although notice of such problems amongst legal practitioners must be reported to law societies and the CBA, most interviewees had very few suggestions on how these institutions would disseminate such information to their members or what solutions could be devised.

Only three men justified this issue as unimportant to warrant attention. M(PST) 3Y, for example, practiced in the healthcare industry before attending law school, so his prior aggression was exacerbated by the nature of his former occupation. According to him, legal aggression was “a walk in the park” compared to his former healthcare position where aggression was “far, far worse”. Although he believed that the legal system and society as a whole have become much more adversarial, aggression against lawyers has not reached the point where it warrants action. Practical legal education beginning in elementary school would be a more fruitful approach to deal with the problems lawyers are

facing, according to M(PST) 19N, and would provide a better understanding of why lawyers are necessary in society. M(MST) 14N believed that law societies and the CBA are already aware of these issues, so bringing these issues to the forefront again without solutions would be disadvantageous.

Many respondents prioritized the need for awareness. For instance, refuting this researcher's findings from the 2005 B.C. Study, M(CST) 29Y claimed that aggression against lawyers can no longer be hidden behind "bravado", a recourse often adopted by many male lawyers. The CBA and law societies must take a greater interest in what is happening and make it one of the agencies' priorities. Removing the shroud of apathy concerning aggression is important, so M(CST) 40Y lamented that many lawyers dismiss this issue as not real or important. M(AST) 23N also emphasized that the lawyering industry must take note of this issue because it is about their own safety, further making the caveat that it seems to be a growing phenomenon that no agencies seem to be reviewing, perhaps because it is so spread out across legal practices. F(MST) 3Y thought there needs to be more awareness at the law school level for law students entering the profession – recognition of client interaction, possible aggression, the potential for conflict – and available resources from which to draw if and when a lawyer is victimized. F(MST) 26Y recognized the legal profession is increasingly dominated by women, so many young female law students must be informed of the potential for violence in the profession. The reality is that women are at high risk. F(EST) 12Y asserted the level of awareness is not equal, with a large group of lawyers who are unaware or lethargic with regard to social justice issues. Consequently, there is very little mechanism for support.

F(AST) 2Y and F(PST) 18Y queried whether this problem is really acknowledged or even known to all practitioners, and if so, do all of them care? Certainly there are lawyers who have never experienced aggression, perhaps by the nature of their practice, but that does not negate them from taking initiatives for those lawyers who have been victimized. F(AST) 2Y was astounded at the "blindness" of some practitioners, equating such ignorance to the fact that if violence does not occur in their practice and is not happening to them or to close colleagues, then it does not happen at all! Further, F(PST) 18Y believed neither law societies or the CBA had any initiatives or task force underway. She also believed that there is a group of lawyers in Canada who simply do not care

because it has not or will not affect them. These are the same group of men who disregard female lawyers' maternity leave issues and the amount of women dropping out of the profession. As well, M(AST) 16Y questioned how some Canadian jurisdictions, especially the larger ones, can self-govern such a large contingent of lawyers. Accordingly, in these regions how would law societies disseminate this information in a practical way to their members?

Others expressed their bewilderment on how such matters can be handled. M(PST) 11N claimed that nothing can be done, notwithstanding the involvement of law societies and CBA. M(PST) 37Y and M(PST) 11Y confirmed the seriousness of the issue but were indecisive as to solutions. F(PST) 4N and F(PST) 6Y also doubted what could be done. Many other interviewees confirmed aggression against lawyers is a serious issue that deserved further examination, but were unable to proffer concrete propositions on how the profession can formalize protection of lawyers.

In a different manner, a few respondents expressed their doubts to the abilities of law societies or the CBA, if put on notice, to offer solutions or recommendations. F(EST) 12Y is constantly hearing about the ineptness of law societies, with F(PST) 6Y explaining that the law societies will just send out another email stating that colleagues are being threatened in the workplace so be careful! F(CST) 10Y also felt law societies do not work with their members, certainly within the capacity of this study, but are always generous when offering terms of benefits or low interest credit cards!

In conclusion, 52 interviewees, with no significance between gender, years of call to the bar and regions, insisted this topic is of concern to lawyers. In summary, M(PST) 7N outlined that:

If people are getting into fights or aggression in society as large, if it is happening in the legal setting more than it should then we do need to think of a way. We as a legal community as a whole need to try and think about ways of making it less. . .to make it easier for people to interact with our world and ways without feeling powerless and confused.

**The “Metamorphosis Process”:
How to Transition from Law Student to Legal Practitioner?**

Certainly law society admissions programs may contain components that focus on the practical side of practicing law – skills-based workshops, skills in interviewing clients, how to draft and negotiate agreements, practicing cross examinations and so on. But is this enough? Pursuant to the tenets of victim precipitation theory, lawyers’ behaviours may attract aggression through attributes such as verbal language and countenance. Further, many individuals in the public opinion poll conveyed their annoyance with how a lawyer responds to clients and others in legal matters. Indeed, when law students article with firms, it is the mentoring process with a senior lawyer that should guide students in the proper direction on correct lawyering skills. Should mentors in law firms be given the responsibility for setting up their own ways of monitoring law students’ behaviours and play a role in developing law firm protocols for addressing the deeper issues as to why they and their peers may be victims of aggression? Or should it be the responsibility of law societies in their admissions programs to develop policies and guidelines, and if so, are they working efficiently in transitioning law students from those roles to the ultimate goal of legal practitioner?

In total, 50 lawyers addressed this question in interviews, thirteen of whom disagreed that there was anything more that could be done that was not already in place. Debates raged on who should be responsible – law schools? law societies? law firms? F(EST) 12Y claimed there is an ongoing fight between law societies and law schools as to who has responsibility to actually train students to be lawyers, as law schools feel they are the conveyors of law, and the onus should be placed on law societies to train students in the practicalities of lawyering. Conversely, faculties of law say that it is the law society’s job to replenish this void, and should be part of articles (F(MST) 26Y. How to manage clients is a huge area of concern, and F(MST) 26Y is confused whether it should be a function of law schools or law societies. M(MST) 26Y opined universities are there to provide students an education, not to create lawyers, so the obligation rests with the various provincial law societies. Nonetheless, he conceded something must be done to further educate law students in the practicalities of lawyering. He described, however, a unique family practice started by a

colleague on the East Coast of Canada where the philosophy for such initiatives was not derived from law school. It originated from her own personal beliefs and pursuit of justice that led her to this end:

She decided to open up what I considered to be a really revolutionary model clinic which she primarily represents women going through some marital breakdown of one sort or another. She has a social worker on staff and she has taken a holistic approach to her practice – that is very unusual. Most firms, most lawyers would not even consider that to be an important part of that. So, you know, but she is a very progressive person but I don't think law school would have necessarily convinced her to do that. It had to be something more about her and her commitment to the work that she does. I don't know.

M(AST) 20Y summarized that law schools produce law students; they do not produce lawyers. Practice knowledge must be imparted on all students. On the other hand, it should be mandatory for law students to work in legal aid, according to M(EST) 15N, because they are exposed to real people, problems and relationships. M(NST) 28N agreed that working with the student legal aid program two nights a week, and every summer after his first and second year of law school, exposed him to clients and their problems, and taught him the practicalities of practicing law. It was an invaluable experience, with options available to all law students if they look for it outside of the curriculum. Lastly, F(PST) 7Y said overall it depends on how law firms view the articling year – is it inexpensive labour or is it training on how to become a professional? Some further education on these issues would be good in law schools, to some degree, but M(AST) 16Y determined that lawyers have not figured out how to “get away from the all-mighty buck”. When he was in private practice, his colleagues stayed in their own offices and “billed like hell”.

Further, of those lawyers who had suggestions, different themes emerged on the problems and solutions to this issue. From what many said, the mentoring process in law firms has diminished, with articulated students or young associates receiving inadequate supervision in skill sets needed to become efficient practitioners. Certainly, as the top priority, billing guidelines are clearly laid out, but modeling behaviour on how to deal with difficult clients (or even compliant ones), liaise with other lawyers, handle oneself in a courtroom, perform exemplary written and oral skills that do not offend, and conduct oneself in public in a courteous and gracious manner are sadly lacking in many firms.

Many respondents lamented this loss. According to F(CST) 17Y, there is a lack of mentoring generally in the legal profession. She believed the function of articles is to teach students how to be lawyers, and to coach on how to relate to other lawyers, certainly in terms of appropriate and improper behaviour. Overall, in her view, many articulated students across Canada do not receive adequate mentorship. She substantiated her conjecture with the following incident:

At the beginning of March I get a phone call from a young guy who is part way through his articles and just got fired by his principal summarily. No warning – just told not to come back the next day. He is out of there. And so, he said, what should I do. I said, well, hang on, I will get back to you, and I canvassed my partners and we agreed we would bring him on and he would finish his articles here. So fine, he comes in. I sit down at the beginning and say, OK, tell me what you have done so that I know what gaps I need to fill. And literally he had done nothing. He had helped prepare a couple of family law files and the rest of the time he had been running the office, answering the phone, doing dictation for goodness sakes, typing and dictation, and so forth. So that is what he had been doing, doing mail. . .

M(CST) 23N agreed that articulated students should be trained better, and M(CST) 7N, a younger lawyer, concurred – more efforts could be made. F(MST) 3Y said that law school is so divorced from the actual practice, rendering articles “hell” because students do not really understand what they are getting into once they have to deal with clients, other counsel or self-represented litigants. Unless the student has an older, experienced mentor with whom he or she can constantly consult, it can be a very difficult and overwhelming ordeal. She posited that mentoring also has other aspects that impact the practice of law – gender discrimination and retaining women in the profession. That is, if adequate mentoring is absent in law firms, women may leave the profession. F(AST) 10N described her exemplary mentorship program and the mentor to whom she credits her values:

It was always about ethics. It was every file that we ever discussed. He made it a point to take me out to lunch, or to take us out to lunch if there was more than one articling student available. When he talked about files it was always about – there was always a sense of ethics involved. There was always respect involved, the respect for the other lawyer, just in your relationships with people, how you should approach people. It could be about always keeping your word, to treating people with respect, making them feel like they’re important, even if you’re having a bad day. We discussed law as well, but there was always an aspect in the file that was

always about people and not so much about the law. And those are things that you can only learn about by watching people and how people responded to him as opposed to another lawyer. I saw a big difference. I think he was a better lawyer for it. Even if he had the same knowledge and the same lawyering skills in court, just because he had that extra concern for people.

Considering the Province of Ontario officials cogitating removal of articles or eliminating certain phases in the articling program, alternative mentorship programs may need to be implemented. M(EST) 33Y confirmed that, pursuant to a Law Society of Upper Canada memorandum, there are no positions left for articling students in Ontario, for example, for every law graduate in Ontario, there is currently one in twenty graduates who can get a position. He questioned why law societies do not get a handle on the number of graduates coming out of law schools. F(PST) 7Y found it terrifying that law societies are thinking of eliminating articles due to the fact there are too many law graduates – she protested that an ethic component must be retained at the very least in order to teach students simply to be nice to one another. For example, F(PST) 3Y said one of her law partners received a particularly offensive letter from another lawyer who wrote in response to a letter that he had sent “if I wanted to hear an asshole, I would fart”. More importantly, M(EST) 15N proposed an interesting mentorship program – after law school there should be a law mentorship program where the law society would require mentor and mentee to submit logs of the time they spend together mentoring or discussing issues. There should be determined a minimum number of hours. Surprisingly, M(PST) 37Y confessed that if he did hire an articulated student, he would be uncertain on how she/he would be useful to him in his practice!

F(AST) 10N explained that in her district, the Law Society is revamping the Bar admission course to include basic tenets such as respect and congeniality. Her mentor, now a Court of Appeal judge, ensured his mentees that the practice of law should be about people first and not about money. M(NST) 28N also confirmed implementation of a new program. His association hired a trainer for all lawyers and staff on how to deal with difficult clients, to provide orientation to new staff and to foster the “beside manner”. On the West coast, the Law Society is making it a requirement of any new lawyer to take a practice management online course (M,PST, 4Y). Unfortunately, this course only deals with how to set up one’s own practice, the intricacies of trust accounting and so

on. He is concerned that the program does not contain more of a psychological component, such as how to deal with troubled clients, ethical boundaries, moral issues, and so on. F(PST) 18Y suggested that when lawyers put their names forward for an articulated student, there needs to be additional monitoring about what the principal is offering to the articulated students (e.g., comprehensive articles, sufficient time guidelines, adequate information, current resources, available mentoring). For example, M(PST) 19N gave an example of his “articles” at a large law firm on the West Coast. He proclaimed it was still an “old boy’s network”, so one of his jobs as an articulated student was to drive one of the senior (and prestigious) partners in the firm to and from the helipad in the partner’s Rolls Royce. F(PST) 7Y articulated in a lucrative large firm on Bay Street, and she was provided with excellent articles – the firm was large enough to provide a legal education, but in law school, she claimed she was taught nothing about being a practitioner. She spoke to a number of University of [redacted] law graduates who claimed the law school did not focus on career or choice development. To summarize the validity of mentorship programs, F(PST) 29Y articulated that:

there is no doubt in my mind as a practitioner of some 29 years that we need a better system in educating those of us who want to practice law and educating not only in how to do it but you know, the decorum and the manners, and the need for professionalism. Whether or not that is through a mentorship or something earlier, it is a huge debate which is not easily resolved. My personal feeling is that the law schools, while I appreciate they are academic and are not turning out lawyers, could and do more training in what it is really like to be a lawyer. Because let’s face it, most people going into law school think they probably will be lawyers, but they may change their mind as they go through but I think more practical approaches are better. And then I think the articling process is crap – no matter how many law societies and studies they do and look at changing the way it is done, the bottom line is that the articling year does not equip anyone to become a lawyer and you need the practice, you need to learn, and using the analogy of a cook, you need to learn how to chop the vegetables before you can take the next step and create a masterpiece. You know it is not something that is going to be taught anywhere simply and so it is with a mentorship program.

Certainly a prevalent and somewhat contentious topic raised was the issue of the practice of law moving to a business paradigm. Because of this, many young lawyers are not mentored adequately; they are brought into firms, given

their billing guidelines and in essence are “thrown to the sharks” in a sink or swim world of law. For instance, F(MST) 5Y recently returned from a national family law conference where one of the concerns was the shrinking of the family bar. Fewer lawyers are practicing family law because of its acrimonious nature, but many are leaving because they are not earning a large income. (MST) 15Y placed emphasis on the pressures of practicing law, and the stress that occurs, probably in some ways as an indirect effect of the pursuit of law as a business due to increased pressures for billing, work and volume. In her experience, F(MST) 11Y came out of law school having read a huge volume of legal cases and how to analyze them, but did not learn much in the way of guidance in terms of dealing with clients – in her opinion, law schools “don’t give a flying flip”. Law students do not learn anything about what happens when there is a billing dispute with clients; do not learn anything in law school about the business of practicing law, so when she started practicing law, it was all about the business and little about the law. However, she did confirm that her law society admissions requirement did have a practical component which did assist her transition from student to practitioner. The business of law needs to be better taught – the economics of the law practice should be better explained and why it is simply not a “cash cow” because in M(CST) 23N’s view, “people just don’t come in and write cheques out and give you money without any reason”. In the end, lawyers cannot just bill endlessly. Some form of education is needed to remind lawyers and more generally law firms, especially the larger ones, that there is something else besides the “bottom line” (M(EST) 34Y). In his opinion, everything nowadays is geared to billing, where the practice of law has ceased completely and migrated to a business of law. Since law firms revolve around billing guidelines, it can be a disincentive for lawyers to spend extra time with clients. In this vein, although M(PST) 36N made it a point to provide advice and guidance to articulated students, these efforts may be waylaid in larger firms when the momentum for billing is “savage”. M(PST) 4Y opined that in larger firms where billing pressure are enormous, articulated students may be thrust into situations without the proper tools to handle such situations, which can lead to legal mistakes and ethical breaches. Law firms that do not solely focus on the hourly billing method foster a completely different environment in which articulated students are not constantly worrying where the next “1/10 of an hour is coming from”. This sentiment was echoed by M(PST) 23Y who praised his firm

for their lower billing targets, thus allowing junior associates to accompany him on five-day hearings without having them worry about working weekends and evenings to make up for lost billing hours. As a result, junior associates gained much needed mentoring experience with a senior lawyer.

Dissonantly, M(AST) 28Y reflected on this issue, but confirmed that law students should have some notions of the business of law, because in reality, lawyers are trying to run businesses. As well, facets of marketing initiatives must be taught to juniors on how they should present themselves, whether professionally or personally, in the pursuit of business. In some Canadian provinces, there are mandatory practice seminars that lawyers must attend that focus on marketing and business, including business law seminars and income tax reviews.

Other participants examined the personalities of law school candidates and graduates, and queried whether law school candidates should be better screened for potentiality other than their grade point average and Law Student Admission Test ("LSAT") scores. F(CST) 25Y claimed there is a general decline in civility within the profession, specifically within the culture of new law students. Partly with the kinds of people who are attracted to the practice of law, there is a failure of law schools to either train or "weed out" those who consider themselves "sharks". She knew of many young lawyers who engage in "sharp" practice, even from the moment they are out of law school, not thinking it unusual to take advantage of colleagues or staff. She did not connote it as aggression or violence within the profession, but a general lack of respect for one another. F(CST) 30Y also underscored personalities in the profession, and how one person deals with issues from others largely depends on one's personality. Law students who tend to display aggressive tendencies should be provided with strategies by law school professors on how to deal with these inclinations. Some law students definitely have real life experiences that they bring to law school, while others harbour naïve views of their prospective goals (M, AST, 20N). The callow students tend to ignore the important factors that come into play when practicing law, such as dealing with clients' respective personalities, value systems and so forth, which put them at vulnerable risk for victimization. M(AST) 16Y, along the same lines, wondered how some of his law school classmates could make it as lawyers. Some of these students had terrible social

and interaction skills, making him wonder how they would ever be able to negotiate a contract or adequately uphold a client's case. He knew one student in his law class who has no socialization skills whatsoever, did not have any interest in the social aspect of law or human rights concerns, and only desired to learn the "black and white" letter of law. Years ago, when F(MST) 22N finished her Master of Laws degree, she taught what is called Negotiable Instruments. She found that,

most of the students – because most of the students in law school go through and they get an undergraduate degree and then they go to law school – so they're basically quite young and often times they may even still be living at home or they may be living in university residence, but they really have not been out and managed in life on their own, so to speak. And I found when I taught that course that parts of it were difficult. I felt as if I needed to take some of these students around and educate them to life. To some extent that is a problem. I don't exactly know how you overcome it, because I think you would run into the same problems because you would have sort of an introduction to legal things from a professor or someone, but that wouldn't really give what I think is more significant which is basically a background in day to day life. Maybe of course in dealing with people, I don't know.

Indeed, some lawyers may have personalities too deeply entrenched. To illustrate, M(PST) 11Y deemed lawyers who digress from correct decorum may have behavioural problems that neither mentoring or law admission programs can help, while M(PST) 16Y concluded that these types of people exist in every aspect of life, including lawyers, so special training or other programs are not going to help. As well, F(PST) 14N posited that there are some people who, no matter what, are never going to excel at client interactions. Interestingly, M(PST) 3Y drifted to elementary school, a proper point in time for individuals to be taught "to play nice", and from his perspective, by the time some individuals attend law school their personalities are too far engrained, so no matter how many seminars, mentorships or programs they attend, they will always be "jerks". Personalities must be moulded in the early formative years.

The remainder of the respondents (eight of whom were called to the Bar eleven years or less) disagreed that anything more needs to be done. For example, many considered law schools, law firms and law society admission programs doing their best in imparting information and developing mentorship programs. Others felt law students should "hit the ground running" as F(AST)

2Y claimed, a two-year call who is still trying to “figure it out”. (NB: M(PST) 19N claimed that lawyers need about ten years of experience before they “hit a plateau of knowledge where you get over yourself and your insecurities”, so you can then be a value to clients.) F(CST) 3Y thought additional programs and mentorship would be negligible and doubts whether students would take it seriously, while F(MST) 11Y felt that inroads have been made in different ways (but was unable to name those different ways). F(CST) 10Y wondered who is going to mentor law students – the same ones that are mentoring now? Unless there is a cognitive shift in lawyers’ roles, lawyers must “take a step out of their shoes”. She maintained that lawyers are supposed to be holding themselves to a higher standard, not to a higher income and certainly not to a higher class, but to a higher standard of values. She said that “lawyers don’t get it – what we do with people affects them for the rest of their lives”. M(PST) 11Y also considered law school, law society admission programs and the articling system sufficient in providing information. M(PST) 11N summarized:

The problem is the way the law is going and the way the business is going and you are not going to solve that in a workshop. The problem is that it has become ever more a business – we are driven by the bottom line and then in the past there used to be real mentoring and certainly what I hear in the bigger firms, that is not there anymore because you are driven by the bottom line.

In sum, M(CST) 40Y concluded that “some of us old guys” have learned through the school of “hard knocks” and have found ways that maybe work better. He thought that some of the younger lawyers may view their roles differently or differ in what is expected of them. In his words,

my view of good lawyers is that they are problem solvers. You must have a certain amount of appreciation for the law and appreciation for legal systems and that sort of stuff but I think that if lawyers can focus first on how can we solve a problem or how can our clients solve the problem. One of the things that would be very helpful to the legal profession and hopefully helpful for their clients is if there was more focus on . . . the psychological. Not thinking about being a counselor or anything, but how do people operate, how do they come about doing the things that they do rather than putting everything in the frame of some kind of legal principle or theory. You need to have that legal background, but you have to have some understanding on how people work.

Legal Literacy in Elementary/Secondary Schools

One of the reasons that individuals may dissolutely react to lawyers is because of their possible misunderstanding or lack of knowledge of Canadian laws and the justice system, which consequently might result in frustration and aggression towards those authorities representing legal institutions. Individuals in legal conflicts may “lash out” at their lawyers, either verbally or physically, because they are frustrated and angry with a justice system about which they know very little, thereby feeling vulnerable and victimized. In the 2005 B.C. Study, interviewees opined that citizens misunderstand or are ignorant of Canadian laws, and if faced with legal predicaments, are often frustrated by the lack of resources available to assist them or their unfamiliarity with the legal processes. In many cases, people are perplexed with the court system and its intricacies, due in a large part to their lack of knowledge of how it works. Many citizens do not understand the role that lawyers play in the justice system – that lawyers have certain ethical standards that they must uphold – or that lawyers do not twist the law to suit clients’ needs. As one interviewee reported, “violence comes from a desperate grasp at wresting some control over a situation over which asserting control is futile at best...” (Brown, 2005: 77). In another sense, dealing with a lawyer and the legal system heightens one’s sense of powerlessness when faced with dilemmas and systems about which he or she may know little. Such power imbalance leads to frustration and possibly aggression. Regaining some of that power by increasing legal education in schools, teaching legal concepts and terminologies, roles of lawyers, judges and judicial officials and reviewing the courts and judicial decisions over a youth’s primary and secondary school educational career will go a long way to broadening legal knowledge. Armed with such knowledge, if youths encounter legal difficulties as adults, having some semblance of legal awareness will hopefully decrease the frightening feelings of vulnerability and powerlessness, and will erode emotional states of frustration, anger and possibly aggression. An enhanced legal curriculum will ensure that upon secondary school graduation, students have a good understanding of Canadian legal structures, processes of the justice system, their legal rights and responsibilities, and an appreciation of the rule of law.

Therefore, a partial solution to this burgeoning problem is broadening law-related education in schools (other than the Law 12 elective) to provide legal

education and information to youth over the span of the school years so accesses to resources and legal information are available to them in adulthood. For example, in a study of 365 students in Grades six to nine, almost one-half of the sample agreed that freedom of expression is a right and that speech is borderless, although the limitation and legalities of speech and freedom of expression are defined under the *Charter of Rights and Freedoms* (Cassidy, Jackson and Brown, 2009). The advancement of legal initiatives in schools will move a long way towards encouraging social responsibility and supporting moral challenges, certainly for both the public and lawyers. Cassidy and Yates (1998) opined that implementing law-related education should begin in the early years and actively work with youth from kindergarten through to Grade 12, not only in mainstream education but also for children with diverse educational needs such as ESL, mental health and delinquency. Such initiatives can be accomplished by incorporating law education into various subject areas by addressing legal issues “through story drama; using literature to learn law-related concepts; experiencing the processes of law through games and simulations across subject areas; using law-related issues to address critical thinking in social studies; and exploring the law through forensics in science classes” (p. ix). These are just a few of the many possibilities that teachers can use at all levels to address civic education and social responsibility (see also Cassidy, 2004; Cassidy & Ferguson, 2009a & 2009b).

In these interviews, lawyers emphasized the urgency for public education through such initiatives as increased law-related education in the school system, including civics. In total, 41 lawyers discussed this issue in interviews, with 24 totally agreeing with this concept, nine offering some advantages and detriments of implementing such schemes, and eight outright disagreeing with such remedies.

Of those 24 respondents who agreed with this particular solution, many prefaced their comments about the lack of general understanding of laws, government and the Charter. F(MST) 11Y stressed the vulnerability one experiences when encountering the legal system and not understanding the process or having the wherewithal to find or hire resources. M(CST) 23N concurred, claiming that at the end of the day, if youth are trained in school to understand some semblance of contract law, theory and Canadian court

procedures, other than what is seen on television, they are better informed about rights from the “get go”. F(MST) 5Y also thought it was a great idea, alleviating (hopefully) that general misconception about lawyer’s roles in society as a whole. F(PST) 18Y offered some suggestions on implementation – a specific strategy offered in two different tiers. Teachers could introduce some easier components in the lower grades, and then gradually offer more sophisticated legal literacy projects as students move through secondary grades. One contingent she placed on these ideas, however, is the fact the curriculum is currently congested, with so little room for additional subjects. She also stressed the need for such curriculum changes because of the constant new influx of peoples from different parts of the world who have little idea of the Canadian legal system and rights, especially the Charter of Rights and Freedoms. The same can be said of lower socio-economic families whose children may not have the same benefits as others – F(AST) 28Y and M(AST) 30Y stressed the importance of civics in the curriculum, but unfortunately some youth may not be enriched with such knowledge due to academic withdrawals or underachievement. For example, F(MST) 22N emphasized that the aboriginals with whom she works are “lost” from the school system before Grade Six. Legal literacy, in her opinion, must contain the element of respect – to give and receive respect in return.

F(PST) 7Y advanced the proposition that legal literacy could be introduced into physics, social studies, personal planning, etc., concrete ideas that are laid out by Simon Fraser University educators, Cassidy and Yates (see Cassidy and Yates, 1998, 2005). M(PST) 16Y adopted a pragmatic approach, stating that realistically legal services are available to two categories of Canadians – the extremely poor and the very rich. The other 95 percent of the population will not be in the best position to retain a lawyer, so Courts will see more and more self-represented litigants in trials, sometimes conducting issues that may be up to 40 days in length. So, in his estimation, legal education is imperative in assisting youth who, upon entering adulthood or before, will need to have the legal acumen to take on such endeavours.

Certain lawyers confirmed that they have given talks in schools or participated in mock trials. M(CST) 29Y has gone to secondary schools for many years and spoken to classes, some as low as Grade 8. He provides insight into the legal system and tries to eliminate the mystique surrounding Canadian laws,

erroneous issues that youth may obtain from television or movies. He tries to humanize his job, so youth can relate to what he does. Other classes will actually attend court with teachers, and legal personnel will spend time with the children. M(CST) 15Y explained the process:

They start at Grade 9 generally, and they come into court and the teachers take them around and find something interesting that's happening, and this happens several times a year. I know that whenever the case is done, I always take the time to ask them if they have any questions, and explain how things work. I'll ask the defence counsel to stay with me and we'll chat with them. Sometimes the judge stays and we chat and we help the kids along that way. So I think more and more schools are incorporating that sort of education into the courses, and I think that's a really good thing. And it gets the kids out of the classroom and into the real world and they can see how things work. I think part of that is that teachers are interested in the law and they have an appreciation of how important and how central the law and the courts are in our lives. And to try and impress that upon the kids.

At the same time, M(CST) 15Y qualified that although schools may teach students how things might work in the Canadian legal system, it does not mean twenty years later they will be able to recollect what they have learned. He was the second of two lawyers who quoted the old phrase "you can lead a horse to water, but you cannot make it drink". So, a lot of youth may listen to what has been taught, but not absorb any real meaning then or in later years, even if schools incorporated some sort of legal education into their curriculum. Further, when youth reach adulthood and are thrust into the adversarial system, as victims, or witnesses, or perpetrators, in many instances the cases may be so overwhelming they might tend to lose whatever perspective they may have learned in prior years. These detriments were also voiced by some other practitioners as well in interviews, although they also underscored the need for such initiatives in school. M(MST) 26Y pressed the need for more legal education in schools, but also punctuated his enthusiasm with doubts on how legal issues learned in Grade 10 will be retained in adulthood when the same issues surface in a family or landlord dispute. But, he reiterated, he is sure it would help in schools nonetheless, but is unsure whether it would help curb aggression against lawyers. When a threat is made against lawyers, it is something the perpetrator perceives as something the lawyer or legal system did, so the whole scenario moves from the abstract to the concrete, or from the abstract to the personal. Lastly, teaching

citizenship and obligations as citizens in the classroom is imperative, and M(PST) 24Y, although not sure whether this will stop aggression against lawyers, argued that constructive pedagogy such as teaching constitutional issues, *Charter* rights, and contract laws in the formative years is extremely valuable.

F(CST) 17Y was concerned that there is an abominable lack of knowledge even amongst higher level education people, never mind people who are in grades ten, eleven or twelve. M(NST) 9Y insisted that the disparate societal opinions of lawyers may not change, even if there was some sort of legal intervention in the school years. However, he did praise the ideas of emphasizing the legal system in the formative years, so youth obtain a clearer idea of what is true, and what is fantasy based on television programs. Contrarily, M(PST) 3Y thought that although there should be less legal education because some individuals are dangerous to themselves by using information inappropriately, he also emphasized cultivation of citizenship, respect and resolution of problems beginning in elementary school, and continuing on through to high school graduation.

Finally, there were eight interviewees who refuted this remedy. M(EST) 34Y pressed the point that the main concern is lawyers doing a poor job collectively to promote and defend the profession. He considered this to be a more pressing causatum than educating “the young ones”. Consonant with these opinions, F(MST) 3Y also repudiated such initiatives would be any help at all. In her view, the lower schools are not the place to educate the black and white letter of the law, a stance also substantiated by F(NST) 30Y, who questioned “why should we burden little kids with the ins and outs of the legal system? – they don’t need that”. In fact, F(AST) 2Y indicated that lawyers should act as the prime educators of law:

I think the lawyer is responsible for educating clients and billing for that education. When I explain to a client why I can’t do something or why I am asking you the questions I am asking because these are the kinds of things that the judge is going to consider and we have to have the answer ready. And these are the kinds of factors that are important in deciding a case like this. That is educating them. And if they don’t understand the process, that is part of what they are paying me for.

M(PST) 20Y also recapitulated that youth will only learn legal issues taught in the curriculum for as long as they write their exams. A couple of years

later they will have no memory of it, and according to him, court structure and function are not the kinds of abstract knowledge that the average high school student is going to see as important enough to actually retain. M(PST) 23Y also disagreed – aggression against lawyers is dealing with very raw emotional outbursts that are not going to be tempered by a greater understanding of the judicial system.

Overall, responses to these ideas were encouraging – implementing law-related education should begin in the early years and be embedded in the curriculum from kindergarten through to Grade 12, not only in mainstream education but also for children with diverse educational needs. The advancement of legal education and legal literacy initiatives in schools will move a long way towards encouraging social responsibility and supporting moral challenges.

CHAPTER 6.

LIMITATIONS

There are numerous limitations to this study. One of the main limitations of this study is that the response rate to the national survey was low, with only 897 lawyers responding to the survey. This can be attributed to a number of reasons. First, lawyers are busy professionals, so they may not have the time or inclination to answer a much longer survey than the shorter one used in the 2005 B.C. Study, although this researcher did clarify in the e-letter how much time would be needed to complete the survey. This limitation was recognized at the outset of this project; using a longer survey in this study would hinder responses. However, it was hoped that the richness and depth of data drawn from a longer survey would overcome the weaknesses associated with brevity in the 2005 B.C. study. Although the S.F.U. website recorded each respondent who accessed and completed the survey, others entered the website, reviewed the survey, but refused and/or neglected to complete it. Second, lawyers may also be contemptuous of surveys in general, no matter what the subject, so this attitude may have impeded responses. Additionally, many lawyers currently use handheld devices such as Blackberries and I-Phones, accessories not so commonly used in the 2005 B.C. Study. In fact, many of the lawyers who corresponded directly with this researcher used handheld devices by emailing or texting. Since completing a survey on handheld equipment is very difficult, if lawyers received the e-letter and survey on handheld devices and were not immediately thereafter in front of a laptop or desktop computer to complete the survey, then it is hypothesized that many respondents either forgot to respond or deleted the e-letter and survey from their handhelds. Third, it was a limitation at the outset of this project that those lawyers practicing in the Eastern and Atlantic provinces may be reluctant to answer a survey from a researcher located

at a Western university. Lawyers may be more inclined to answer surveys from their *alma mater*, and it can be assumed that many of the lawyers from the Eastern and Atlantic provinces attended universities in the East. Accordingly, some of the lowest responses were from Ontario and Quebec. Lastly, respondents were self-selected, and it is possible that only those individuals who thought they had something positive or negative to report were motivated to volunteer. Although the e-letter to respondents stated: "I would like to hear from all practicing lawyers, whether they have received threats or not, since it is important that information from all sectors of the legal community is received", people who have been victimized may be far more motivated to participate because they have a story to tell. Also, the author was not present to answer or clarify questions when respondents completed the survey, so arguably they may have misconstrued or misunderstood some of the questions.

De Leeuw and de Heer (2002) posited that "response rates [to survey research] have been declining, both in the United States and in most of the industrialized world, for at least several decades" (p. 41). Such decline in response rates have led to increased concerns about the overall future and validity of survey as legitimate research methodology (Huffington, 1998). For example, Schuldt and Totten (1994) reported a 19% electronic response rate in their study, and Swoboda, Muehlberger, Weitkunat & Schneeweiss (1997), from a global email survey, received a 21% response rate. However, Biersdorff (2009) claimed that "response rate is not the best way to judge the accuracy of survey results, but *representativeness* of respondents is" (p. 1). In addition, contributing to this study's low response rate is that victimization surveys tackle very sensitive issues, and it was expected that fewer respondents would answer such a survey than a survey touching on less personal matters. Accordingly, the findings in the national study may not be generalizable due to the lower response rate, and as well, some respondents may represent particular areas of practice that may be more inclined to aggression, such as criminal, family and civil litigation, although lawyers from most areas of law expressed some aggression. The inclusion of large numbers of lawyers from these practice areas may have unintentionally over-stated the extent of aggression against members of the profession. For future study, it would be important to receive additional input

from more solicitors to help develop policies and procedures reflective of the point of view of other key players involved.

Fourth, it is important how respondents subjectively define violence, threats and abuse in responding to the survey. Although each type of behaviour was defined on the survey, lawyers may not have taken the time to fully read the explanations or intuitively determined that such behaviours were inapplicable in their cases or irrelevant to the overall construct of risk. Unfortunately, reprisals may be difficult to categorize and one prime reason for their complexity is the lack of lawyers' consensus on the classification of violence – such fractured and diverse views of criteria for the taxonomy of violence may hinder decisions about reporting anomalous behaviours (subjective interpretation of violence/threats/abuse)

Fifth, some respondents used the phrases “justice system” and “legal system” interchangeably, although the differences between the two phrases were delineated by other lawyers who clarified that individuals will not always receive “justice” in an adversarial legal system. Many interviewees when citing these phrases did not differentiate between the two but used them simultaneously in conversations.

Sixth, many lawyers had a unique approach to the concept of mental abnormality. In these interviews, lawyers may interpret “mental illness” in various ways – some may view it as stress-related; others may determine it is thought disorders or overstimulation, while a few may regard environmental influences as the source (Siegel and McCormick 2010). Whatever the case, the term “mental illness” is malleable and influenced by subjective interpretation, so what lay persons such as lawyers consider being “mental illness” may not be clinically defined by psychoanalysts, cognitive psychologists or behavioural theorists as correct.

Next, it is difficult, if not impossible, to offer comparative analyses when there is a lack of Canadian literature on this topic. Although American literature was reviewed in the 2005 B.C. Study, no published studies or research findings on aggression in Canada have been conducted, to this researcher's knowledge.

Eighth, whenever victims were asked to recall events, memory fade and/or telescoping could have occurred such as recalling events must earlier than when they actually happened or forgetting the details of the event. Given

that memory fade is often greater if incidents are not reported to police (Palys, 2003), forgetting and/or exaggeration of events are possible. Further, although the survey was deliberately designed to canvass events that occurred in the last year when memories are clearer, and in the last five years to capture events outside of the first time period, respondents may have included events that happened more than five years ago or were unsure whether events occurred within the past year or in the last five years.

As well, since the e-canvass of the survey took one year (between May, 2008 and July 2009), there is a time lag between the time frames of “the past year” and “in the last five years”, certainly between those responses first and last received. This lag could not be avoided, since canvassing 15,746 lawyers was extensive and required some time to accomplish. Lastly, there may have been subsequent changes in practices in law firms and philosophies of lawyers since these interviews were conducted which are indeed not captured in this dissertation.

With regard to the public opinion poll, the survey data could be skewed by disgruntled, exaggerated, or deceptive responses. Further, with regard to the first study, the public respondents were self-selected, and it is possible that only those individuals who thought they had something positive or negative to report were motivated to volunteer. In addition, the author was not present to answer or clarify questions when respondents completed the survey, so arguably respondents may have misconstrued or misunderstood some of the questions. Further, Canada is a multi-cultural country with many citizens unable to speak or read the English language. For example, this researcher did not translate the advertisement for inclusion in Chinese newspapers. Although the survey offers anonymity, this researcher could not certify who was responding, was unable to prevent duplicate responses, verify the seriousness of each response, or determine the accuracy of responses. Lastly, the online procedure utilized here may hinder responses from those individuals who do not have ready computer access. With regard to the second portion of the study (university students), since the surveys were completed in a lecture room, privacy was not guaranteed and respondents may have been influenced by vocal comments. In sum, the results of these two studies are taken in isolation and not within context and comparison to other professions, so although the results indicate that some respondents had

little respect for lawyers, this may be the normal gauge for many other professions as well. The public may be disrespectful and unfaithful to doctors, accountants, professors, and so on, so this trend may be a sign of larger issues within the public sector, and not particularly inclined only to lawyers. However, Leger Marketing conducted a 2003 study of 1,529 English and French speaking Canadians, 18 years and older, and asked their perception on various professions. The agency found that lawyers were in the bottom fifty percent of a list of twenty professions. Only 48 percent of Canadians had trust in lawyers, with firefighting (96%), nursing (94%), doctoring (89%) and teaching (88%) professionals taking the lead as the most trusted in Canada. Car salespeople (20%) and politicians (14%) were the lowest-ranked professions. Just under lawyers were journalists (46%), insurance brokers (46%) and real estate agents (40%) (Leger, 2003). However, what is important to note here is that lawyers, in most cases, are handling cases in which clients' lives, livelihood, family or emotional stake in life may be in jeopardy, similar to what firefighters, nurses and doctors encounter on a regular basis. Although these latter professions rank the highest on the Leger Marketing poll, lawyers, unfortunately, are in the bottom one-half, which leads one to question what characteristics or directives do lawyers have that motivates people to vote them as a lesser favoured profession.

CHAPTER 7.

CONCLUSION

CAUSES: THEORIES AND ACTUAL PRACTICES

At this point, it is still unclear which theory best fits the phenomenon of lawyer victimization. According to Weiner and Hardenberg (2001), no explicit hypothesis can comprehensively address this phenomenon. Thus, an amalgamation of theories set out here in this dissertation attempt to explain why lawyer victimization occurs. For example, it is very difficult to isolate individuals and claim that because of certain traits, they will strike out against others, especially lawyers. However, individuals with certain characteristics may have a propensity to resort to aberrant behaviour. It is also a tangible possibility that frustration may lead to aggression, and the frustration/aggression hypothesis is relevant in relation to legal predicaments. As set out in the 2005 B.C. Study, when lawyers were asked what are the reasons behind aggression against legal practitioners, most participants speculated that individuals involved with the legal system feel frustrated, and it is this frustration that underpins anger and corollary outcomes (Brown & MacAlister (2006a&b)). Given the responses obtained, certainly the frustration/aggression hypothesis holds credence as a theoretical perspective worth pursuing further. The interviewees explained various reasons why people become frustrated and confirmed that indeed as frustration intensifies, so does the possibility for aggression.

Abusive behaviour must also be examined, on a case-by-case basis, since factors such as subjective interpretation of the situation; gender; alcohol and drug consumption; an individual's susceptibility to social cues, and an individual's prior learning of the social rules and inhibitions against aggressive reactions could possibly contribute to violence against lawyers.

Ostensibly, individual revenge against a legal system and lawyers that are perceived as biased, unethical, unfair and/or unscrupulous may be relevant as well, seemingly in particular legal situations in which family, livelihood and assets may be in jeopardy. An individual who has spent a lifetime building a career, acquiring substantial assets, nurturing a family, and investing wisely, may blame legal personnel who are interfering with personal and professional equity and retaliate in a ruthless act of revenge, out of frustration, from feelings of lawsuit entrapment, or over perceived injustices. In addition, there is the element that the legal system takes the control away from the individual and places it in the legal system, which is usually foreign to the person (at least not understandable). There is also elitism within the system – an elite knowledge, odd vocabulary and a formal process that distance the participant from the process. This, too, could compound frustration. Arguably, individuals with impulsive tendencies may be unable to maintain control of frustration, anger and blame, thus losing all sense of propriety and giving way to aggression. Certainly if individuals discern that a lawyer/client relationship and bond has been breached or severed, misbehaviour may arise. The bond between lawyer and client is precious, especially from a client's point of view, whose life may be in turmoil over a legal dispute.

Delving into the organizational dynamics of the legal profession and its members' creeds may evince the need for reforms in the legal profession, its goals and ensuing mentality adopted by members, and its numerous practices. Notwithstanding the extent to which our global economy is run on competitiveness and corporate activity, such market forces must not impinge on professional ideals to the point where these principles are eroded and then dominated by monetary goals. Although it may be argued that lawyers cannot remain viable in a competitive market if pecuniary pursuits are not maintained, the true intent of a lawyer's calling must also always be upheld. This bifurcation may place lawyers in a difficult position, but to maintain and elevate lawyers' status in society, a coexisting medium must be met. Practices such as legal advertising, billable hours and *pro bono* work should be reviewed to address rising public disdain. Pursuant to victim precipitation theories, lawyers should perhaps appraise their own tactics in practicing law, maybe reassessing how some behaviours can attract aggression. Various factors in lawyers' repertoires

can affect perception, from how lawyers conduct themselves to broader societal forces. Incivility in the legal profession seems to be an ongoing problem, notwithstanding Ontario's Advocates' Society compiling a sixteen-page treatise on guidelines to civility (Marron, 2006). Some lawyers are rude, either to one another or to the general population, and the public, through experience or hearsay, notice such indiscretions in manners. The added stress of lawyering may also underpin imprudent behaviour. Geok-choo, Kwok-bun and Yiu-chung (2008) found the most stressful aspects of a lawyer's job are dealing with difficult clients, irritating lawyers and exacting judges. At the same time, members of the public may not understand law and legal procedures, leading to gross misunderstandings of lawyers' roles. All of these aspects play a role in tarnishing lawyers' countenance, possibly resulting in individuals effecting contemptuous actions. If respect for lawyers is declining, as many interviewees believed, then atypical behaviours may continue or possibly escalate.

Duplicitous billing methods to meet the billing standards set by many law firms, *pro bono* service to those individuals less fortunate in society who cannot afford legal counsel, and self-regulation contentions are factors that attract, in some cases, unwanted attention that can cast an unfavourable impression of lawyers. Assuredly of concern and not one that has gone unnoticed by officials at all levels, is the cost of retaining lawyers. Lawyers are expensive, with the average Canadian citizen unable to seek counsel due to the costs involved. This has led to a proliferation of self-represented litigants in the court system, adding stress to the court system, lawyers, and opposing parties. Again, frustration is at the heart of many of these issues, due in part to the general exclusion to the system. The continuing rise of self-represented individuals in the Canadian legal system is an indication that something is seriously wrong and broken with this model. Although some self-represented citizens may renounce lawyers and all they stand for or sense that they can do a better job on their own, there are still many Canadian citizens who cannot afford lawyers, and even if they wanted to retain counsel, do not have the means or opportunities to do so.

Implementing situational crime prevention strategies at various levels (e.g., courthouse and surrounding areas inside and outside, business offices and ancillary areas such as elevators, receptions areas, lobbies and parking garages, home offices, and homes) may prevent further victimization in the future. If such

tactics deny or hinder access to lawyers by motivated offenders, hopefully lawyer victimization will shrink.

PUBLIC OPINION

Giving the public a voice puts this topic into perspective. Not only do some individuals often misunderstand lawyers, their roles in society, and Canadian laws, but the respondents in the public poll provided their opinions on criteria needed to bring this profession back to an acceptable level of professionalism. If lawyers' behaviours are affecting their place in society, then members and their professional overseers need to listen. At the same time, the public, on many occasions, may be misinformed about the laws, policies and procedures to which lawyers must adhere, so blaming the profession for doing their job is also an issue that should be reviewed. Enhancing legal literacy amongst our youth to prepare them for the challenges they must face in adulthood is a merited construct, considering access to lawyers is increasingly prohibitive. If the costs continue to increase, the youth of today will have no other recourse when they reach maturity but to represent themselves in court or legal actions. Unfortunately, the interviewees were generally perplexed when asked for solutions to this burgeoning problem, other than to say that increasing *pro bono* services might help.

POLICY IMPLICATIONS

Effectively implementing policy reformations with regard to workplace violence such as the one examined here, have been unsuccessful, due in most part to the lack of supportive research-based data on aggression against lawyers before 2005 and a lack of general public awareness of the problem. Aside from the fact that provincial and federal governments are implementing policy reforms with regard to their legal staff, members of the private bar are left to their own devices, whether it be office protocols or courthouse security. In order for changes to take place, accredited evidence, in addition to expert and professional opinions, are needed to support initiatives for policy implementation or reformation (DePalma, 2002). As well, it is necessary for the public to be convinced of the necessity of

new policies. At this point in time, the process of engaging the general public on the policy issue of lawyer workplace safety could be tenuous due to the fact the overall public opinion of the Canadian legal profession is dismal (Wilhelmson, 2004). In the end, the public must be persuaded of the legitimacy of the reasons underpinning policy implementation (Des Rosiers, 2003). If the belief in the value of legal representation and the irreplaceable role that lawyers play in society outweigh the general public consensus of lawyers being at the forefront of diminishing professionalism, then policy stakeholders may embrace the utility of additional research-based evidence supporting policy changes. Consequently, whether research findings will be assessed and carried forward by policy makers will also depend on political agendas. In the end, research findings tend to be assessed for their “political and symbolic value”, rather than their intellectual worth (Brereton, 1996: 85). If policy makers determine that the legal foundation upon which our democratic society rests is “cracking”, then the political worth of proposed policy initiatives will be heightened.

GENDER ISSUES

Female lawyers who were victimized are more distressed than their male counterparts. The impact of such findings may hinder females from continuing the practice of law or persuade them to switch to other areas of practice. However, female attrition at the three to five year period may be prevalent in other professions as well, such as law enforcement, so lawyering may not be unique to this phenomenon (Seagram and Stark-Adamec, 1992). But if female lawyers are victimized in areas where security is incomplete or absent, then vulnerability could continue when they are engaged in their occupation.

DIFFERENCES BETWEEN THE 2005 B.C. STUDY AND THE CURRENT STUDY

One notable variance is that lawyers are beginning to recognize that aggression against lawyers may be a problem for some lawyers in Canada. For example, M(CST) 29Y claimed this is a topic that was not readily discussed in the past but now lawyers are beginning to discuss these issues with one another. She believed

that, for want of a better phrase, “people are coming out of the closet”. This turn of phrase was also coined by F(MST) 3Y who offered this conjecture:

. . . I think it is really interesting in just talking to people about whether they had filled out your survey and things like that. People who didn’t know about it – most of what they were talking about were things like lawyers in Iraq, lawyers in different countries who had been victims of aggression, which I thought was quite funny because I said, well you know, knowing their practice, have you ever encountered this? And they would say, no, no, and then would say, oh yeah, that one time, and then, oh yeah, that time. And so it was a really distant thing to them until you actually sit down and think, oh yeah, I had that happen to me. . .

I spoke to a lawyer who sat down with others over beer and realized that when we all sat and talked about it, we all had received some sort of communication that made us uneasy, and he thinks now over the last few year, last couple of years, that, and I use the phrase, coming out of the closet – all of the sudden lawyers are coming out of the closet – lawyers are starting to talk and think about it a little more – think that maybe this could turn into something serious. And I think that once things get put on the table and they are out in the open, maybe lawyers will start taking further precautions and security issues. . . . measures in law firms, government may take actions with prosecutors to make them more secure, so I think it is becoming an issue.

Still, M(CST) 2Y did confirm that some men, who do not experience a sense of fear or dread in practicing law, may possess some semblance of bravado. Others may still try to minimize aggression, convincing themselves that it is part of their occupation – something with which one just has to live. Rather, whereas in the 2005 B.C. Study, respondents were more flippant and nonchalant, there was a sense of urgency for some interviewees in the current study, acknowledging that some lawyers may recognize this topic as an emerging and recognizable problem.

MENTORSHIP/LEGAL LITERACY

Mentorship issues and increasing legal literacy in schools may be proactive initiatives worth cultivating. Many members of the public are unfamiliar with the intricacies of the legal system and the role lawyers play in that system, and those who do have some semblance of knowledge have little faith in the system. Such ignorance can lead to possible frustration and aggression against legal

officials. Revisiting provincial school curriculum is a good place to start to teach young people ethic of care, morality and civil approaches. Law and legal literacy initiatives would go a long way to teach young people the important roles lawyers have in our society.

An abundance of incivility is evident between lawyers themselves, and between lawyers and the general public. If law students are receiving minimal to no mentoring upon entering an articling program, or mentoring does not continue during the formative practice years, then law firms may be employing lawyers who may be woefully inadequate in professional etiquette. On the other hand, perhaps mentors are instructing their protégé in the art of (sharp) practice in the misguided belief that such behaviour is acceptable and successful. Kay and Wallace (2010) found that mentorship programs are enhanced in larger law firms of 50 or more lawyers, but are sadly lacking in smaller firms. Without fail, lawyers in solo practices encounter their own set of mentoring challenges. Surprisingly, Kay and Wallace determined that female lawyers, as opposed to their male counterparts, were more likely to receive mentorship throughout their legal careers. Of note is the fact many of the female mentors counselled female lawyers (16%) as opposed to those mentoring males (2%). In addition, employing multiple mentors rather than a single advisor can enhance legal careers. Ontario Justice Campbell also confirmed that lawyers' actions are increasingly breaching rules of civility, due in large part to a lack of mentoring in law firms, an obligation to young associates that firms seem to be eliminating (Marron, 2006).

Perhaps mentorship programs could focus on young academics to guide them from law school, through the articling program and into their legal careers. Therefore, at first blush, it may be worthwhile to explore further education in law schools (Sullivan et al., 2007) and offer guidance in preparing law students to become professionals. Given the Chief Justice of Ontario's Advisory Committee assigned to this burgeoning issue of legal professionalism, it may be prudent to mediate the ongoing contentions between law schools and law societies and settle on who should be responsible for teaching law students on how to become professional and civil practitioners. Issues such as lawyers' demeanour and civility between members could be addressed and researched in more depth, certainly if female lawyers are reporting verbal and possibly physical aggression

from male lawyers. Failing to maintain a professional attitude exacerbates workplace abuse, obviously counter-productive in the practice of law.

BUILDING AWARENESS

The disarticulation of knowledge between certain segments of the Bar and different regions in Canada should be addressed. Although lawyers in prestigious firms on Bay Street may not experience or acknowledge aggression against the profession, it does not negate the fact that other members across Canada, in many sectors of practice, have experienced aggression to some degree or another. Such aggression may springboard to other extraneous parties such as family members and office staff. Certainly noteworthy are the provincial governments' initiatives to protect prosecutors – installed security measures exceed those in place in private law firms.

Cohesion across all legal sectors and regions in Canada must prevail – as has been found here in this study, a few lawyers from every province and territory (except Nunavut) have experienced aggression. Ignorance of such facts or supercilious impressions that aggression against lawyers does not exist or is minimal and lacks impact, may offend those lawyers who have received some aggression and suffered stressful repercussions. Law Societies in each province need to pull together and bind their members *en masse* to address the concerns raised by members of the public and members of the Bar, as noted in this dissertation. It must be explicitly noted here that both segments – lawyers and Canadian citizens – must undertake initiatives to reach some semblance of recognition of each other's problems to reduce aggression against lawyers.

ACCESS TO JUSTICE

Advocates of public legal education have been promoting access to justice for about 20 years, and it still a continuing problem. Candidly, it is simply too expensive for an average income-earner in Canada to retain a lawyer. This has given way to many citizens taking matters into their own hands and self-representing their legal pursuits. Such endeavours can sustain and increase aggression against lawyers, and pursuant to the findings in this study, it can lead

to an escalation of antagonistic attitudes. Can increases in *pro bono* work fix the problem? Akin to such attitudes is the contemptuous spirit directed at lawyers. Simply put, Canadian citizens rank lawyers around the same level as used car sales people (Leger, 2003). A revamping of lawyers' images, and a review of lawyers' attitudes and behaviours are continuing concerns for law societies and the Canadian Bar Association.

FURTHER RESEARCH

For future studies, lawyers' personalities, abilities to practice law in a professional manner, and the intricacies of the lawyer/client relationship need to be tested in order to learn the extent to which lawyers are responsible for their own victimization. Thus, it is important to test the victim precipitation theory in another research project. Of course, this leads to further analysis of additional factors that may affect victimization. For example, society's trust and confidence exceeds merely lawyers and their dealings with clients; it is their role and function in society, their role in the judicial structure and their conformity to Canadian laws that has an impact. Additional research is needed in this area to clarify what other influences underscore the public's impression of Canadian lawyers.

Although task groups have been assigned to investigate civility in the profession, the facts arising from this study indicate that civility has declined to the point where some counsel (and specifically women) report encountering aggressive or intimidating behaviour (physically and psychologically) from other, mainly male lawyers. Future research could review these issues, certainly from the perspective of female attrition, and to determine what other factors may be at play here. If women are suffering psychological effects from incidents of aggression, then further research needs to be undertaken to understand the insidiousness of this dynamic. If women are subsequently leaving the profession, changing fields or using their law degrees in other occupations, then the reasons underpinning such transitions must be explored further. As well, dialogue must begin or continue, at the provincial and federal levels, on structural guidelines for safety protocols, both short term and long term, to protect and enhance security protocols so female attrition can be arrested. Programs, including

support centres, counselling, education on workplace aggression, and peer group dialogue, are options for consideration.

Further, it is evident from this study that geographically vulnerable areas still exist for lawyers in their practice of law. Research could be undertaken to ascertain whether lawyers are at risk for injury when walking to and from their offices after a court appearance, or if business offices and surrounding areas require additional security.

Lastly, additional studies should continue on aggression against judges. If insurance brokers now deem judging a high-risk occupation (Quebec Conference, 2008), then research (similar to those studies in the United States) to determine the quality and quantity of such aggression should commence.

REFERENCE LIST

- Abel, R. (1988). *The Legal profession in England and Wales*, Oxford: Blackwell.
- _____. (1988). Comparative sociology of legal professions. In Richard L. Abel & Philip S.C. Lewis (Eds.) *Lawyers in Society*, Berkeley: University of California Press.
- _____. (1989). Between market and state: the legal profession in turmoil, *Modern Law Review*, 52(3), 285–325.
- Allan, S., & Gilbert, P. (2002). Anger and anger expression in relation to perceptions of social rank, entrapment and depressive symptoms. *Personality and Individual Differences*, 32(3), 551–565.
- Alvi, S., Schwartz, M., DeKeseredy, W., & Maume, M. (2001). Women's fear of crime in Canadian public housing. *Violence Against Women*, 7(5), 638–661.
- Archer, J. (2004). Which attitudinal measures predict trait aggression? *Personality and Individual Differences*. 36(1), 47–60.
- Arnold, B. & Hagan, J. (1992). Careers of misconduct: The structure of prosecuted professional deviance among lawyers. *American Sociological Review*, 57(6), 771–780.
- Arnold, B. & Hagan, J. (1994). Self-regulatory responses to professional misconduct within the legal profession. *The Canadian Review of Sociology and Anthropology*, 31(2), 168–183.
- Babinski, L., Hartsough, C., & Lambert, N. (1999). Childhood conduct problems, hyperactivity-impulsivity, and inattention as predictors of adult criminal activity. *Journal of Child Psychology and Psychiatry*, 40(3), 347–355.
- Baines, D. (2007, June 6). *The Vancouver Sun*. p. D3
- Bandura, A. (1973). *Aggression, a social learning analysis*. Englewood Cliffs: Prentice-Hall, Inc.
- Barron, C. (2000). *Giving youth a voice: A basis for rethinking adolescent violence*. Halifax, N.S.: Fernwood Publishing.

- Benveniste, K., Hibbert, P., & Runciman, W. (2005). Violence in health care: the contribution of the Australian patient safety foundation to incident monitoring and analysis. *Medical Journal of Australia*, 183(7), 348–351.
- Berkman, H. (1994). GAO: Threats to judicial security not being met. *National Law Journal*, September 12, 1994.
- Berkowitz, L. (1962). *Aggression: A social psychological analysis*. New York: McGraw Hill.
- _____. (1981). The concept of aggression. In P.F. Brain & D. Benson (Eds.), *Multidisciplinary approaches to aggression research*. Amsterdam/New York: Elsevier/North-Holland, p. 3.
- _____. (1989). Frustration-aggression hypothesis: Examination and reformulation. *Psychological Bulletin*, 106(1), 59–73.
- _____. (1990). On the formation and regulation of anger and aggression. *American Psychologist*, 45(4), 494–503.
- Berkowitz, L. & Harmon-Jones, E. (2004). Toward an understanding of the determinants of anger. *Emotion*, 4(2), 107–130.
- Besserer, S. & Trainor, C. (1999). Criminal victimization in Canada. *Juristat*, 20(10), 1.
- Bies, R., Tripp, T. & Kramer, R. (1997). At the breaking point: Cognitive and social dynamics of revenge in organizations. In R. Giacalone and J. Greenberg (Eds.), *Antisocial Behavior in Organizations*. Thousand Oaks: Sage Publications, 18.
- Biersdorff, K. (2009). How many is enough? The quest for acceptable survey response. Retrieved from:
<http://kkbiersdorff.wordpress.com/2009/09/16/how-many-is-enough/>
- Brereton, D. (1996). Does criminology matter? Crime, politics and the policy process. *Current Issues in Criminal Justice*, 8(1), 82–88.
- Boyd, N. (1995). Violence in the workplace in British Columbia: A preliminary investigation. *Canadian Journal of Criminology*, 37(4), 491–519.

- Brady, M. (1998). Lawyers as victims: While there are no recorded statistics, violence against the legal profession appears to be on the upswing. *Financial Post*, 91(2), 24-25.
- Brantingham, P. & Brantingham, P. (1975). The Spatial patterning of burglary. *Howard Journal of Penology and Crime Prevention*, 14(2), 11-23.
- _____. (1988). Situational crime prevention in British Columbia. *Journal of Security Administration*, 11, 18-27.
- _____. (1991). How public transit feeds private crime: notes on the Vancouver 'Sky Train' experience. *Security Journal*, 2, 91-95.
- Brereton, D. (1996). Does criminology matter? Crime, politics and the policy process. *Current Issues in Criminal Justice*, 8(1), 82-88.
- Brown, K. (2005). *An exploratory analysis of violence and threats against lawyers*. Master's Thesis – Simon Fraser University, Burnaby, British Columbia.
- Brown, K. & MacAlister, D. (2006a). Violence and threats against lawyers. *Canadian Journal of Criminology and Criminal Justice*, 48(4), 544-571.
- _____. (2006b) Injured in the line of duty: Is the practice of law becoming a high risk occupation? *The International Review of Victimology*, 13(3), 251-274
- Brown, P. (1990). America's legal profession is in trouble. What are we going to do about it? *New York State Bar Journal*. May, 1990, 16-18.
- Bryant, S. & Range, L. (1995). Suicidality in college women who were sexually and physically abused and physically punished by parents. *Violence and Victims*, 10, 195-215.
- Burger, W. (1995). The decline of professionalism. *Fordham Law Review*. 63(4), 949-958.
- Bushman, B., & Anderson, C. (2001). Is it time to pull the plug on the hostile versus instrumental aggression dichotomy? *Psychological Review*, 108(1), 273-279.
- Calhoun, F. (1998). *Hunters and howlers: Threats and violence against federal judicial officials in the United States, 1789-1993*. Arlington, VA: U.S. Department of Justice, U.S. Marshals Service.

- Calhoun, F. (2001). Violence toward judicial officials. *Annals of the American Academy of Political and Social Science*, 576, 54-68.
- Canada's National Occupational Health & Safety Resource (2005). *Violence in the workplace*. Retrieved October 7, 2005 from:
<http://www.ccohs.ca/oshanswers/psychosocial/violence.html>.
- Canada NewsWire (2006, November 16). *Attorney General applauds Ontario's growing pro bono culture*. Ottawa: p. 1
- Cassidy, W. (2004). Don't forget about law: A case for law-related education in elementary social studies. *Canadian Social Studies*, 39(1), 1-6.
- Cassidy, W. & Ferguson, M. (2009a). Law-related education: Cultivating informed and empowered citizens. In R. Case & P. Clark (Eds.), *The Canadian anthology of social studies: Issues and strategies for elementary teachers*. Vancouver, B.C.: Pacific Educational Press.
- Cassidy, W. & Ferguson, M. (2009b). Law-related education: Preparation for citizenship and for life. In R. Case & P. Clark (Eds.), *The anthology of social studies: Issues and strategies for secondary teachers*. Vancouver, B.C.: Pacific Educational Press.
- Cassidy, W. & Yates, R. (Eds.) (1998). *Let's Talk about Law in Elementary School*: Calgary: Detselig Enterprises Ltd.
- Cassidy, W. & Yates, R. (2005). *Once Upon a Crime ...* Calgary: Detselig Enterprises Ltd.
- Chen, W., Hwu, H., & Wang, J. (2009). Hospital staff responses to workplace violence in a psychiatric hospital in Taiwan. *International Journal of Occupational and Environmental Health*, 15(2), 173-179.
- Chief Justice of Ontario's Advisory Committee on Professionalism (2001, October). *Elements of professionalism*, Retrieved November, 2010 from:
<http://www.lsuc.on.ca/media/definingprofessoct2001revjune2002.pdf>
- Chief Justice of Ontario's Advisory Committee on Professionalism (2004). Retrieved November, 2010 from:
http://www.lsuc.on.ca/media/third_colloquium_mcmurtry.pdf
- Cline, B. (2008). A nightmare in family court. *National*. June 2008, p. 24.

- Cohen, A. (1955). Social norms, arbitrariness of frustration, and status of the agent of frustration in the frustration-aggression hypothesis. *Journal of Abnormal and Social Psychology*, 51(2), 222-226.
- Cohen, L. & Felson, M. (1979). Social change and crime rate trends: A routine activities approach. *American Sociological Review*, 44(4), 588-608.
- Clore, G. & Centerbar, D. (2004). Analyzing anger: How to make people mad, *Emotion*. 4(2), 139-144.
- Commercial Law Bulletin (2004). *Collection Law: How Risky is this business?*
Retrieved from: <http://proquest.umi.com.proxy.lib.sfu.ca>
- Cook-Sather, A. (2002). Authorizing students' perspectives: Toward trust, dialogue and change in Education. *Educational Researcher*, 24 (June-July), 12-17.
- Cronk, The Honourable Eleanore A. (2005). Professionalism and barriers to justice (Paper from the fourth colloquium on the legal profession (March 2005). Retrieved November 2, 2009 from:
<http://www.ojen.ca/eng/resources/show.cfm?id=105>
- Davis, R., Taylor, B., & Lurigio, A. (1996). Adjusting to criminal victimization : The correlates of postcrime distress. *Violence and Victimization*, 11, 21-34.
- de Leeuw, E., & de Heer, W. (2002), Trends in household survey nonresponse: A longitudinal and international comparison. In R. M. Groves, D. A. Dillman, J. L. Eltinge, and R. J. A. Little (Eds.), *Survey Nonresponse*, New York: John Wiley & Sons, 41-54.
- DePalma, J. (2002). Proposing an Evidence-Based Policy Process, in *Nursing Administration Quarterly*, 26(4), 55-61.
- DeRosiers, N. (2003). The journey from research to policy: Frictions, impetus and translations. *Horizons, Policy Research Initiative*, 6, 3-5. Retrieved November, 2010 from:
http://www.policyresearch.gc.ca/doclib/HOR_v6n1_e.pdf
- Dill, J., & Anderson, C. (1995). Effects of frustration justification on hostile aggression. *Aggressive Behaviour*, 21(5), 359-369.

- Dodek, A. (2000). Canadian legal ethics: A subject in search of scholarship. *The University of Toronto Law Journal*, 50(1), 115-134.
- Dollard, J., Doob, L., Miller, N., Mowrer, O., & Sears, R. (1939). *Frustration and aggression*. New Haven, CT: Yale University Press.
- Farrell, G., Phillips, C. & Pease, K. (1995). Like taking candy, Why does repeat victimization occur? *British Journal of Criminology*, 35(1), 384-399.
- Farrington, D. (1991). Childhood aggression and adult violence: Early precursors and later-life outcomes. In D.J. Pepler & K.H. Rubin (Eds.), *The Development and Treatment of Childhood Aggression*. Hillsdale, NJ: Lawrence Erlbaum.
- Ferns, T. (2005). Under-reporting of violent incidents against nursing staff. *Nursing Standard*, 20(40), 41-45.
- Ferns, T., & Chojnacka, I. (2005). Reporting incidents of violence and aggression towards NHS Staff. *Nursing Standard*, 19(38), 51-56.
- Finkelhor, D. & Asdigian, N. (1996). Risk Factors for youth victimization: Beyond a lifestyles/routine activities theory approach. *Violence and Victimization*, 11, 3-19.
- Freeman, M. (1992). The Profession of law is NOT on the decline. *Dickinson Law Review*. 96, 149.
- Friedman, D. (2000). *Law's order: What economics has to do with law and why it matters*. Princeton, N.J.: Princeton University Press.
- Furlong, J. (2008). Life after Lawyers. *National*. June, 2008, p. 6.
- Galanter, M. (1994). Predators and parasites: Lawyer-bashing and civil justice. *Georgia Law Review*. 28(3), 633.
- Galanter, M. & Palay, T. (1992). The transformation of the big law firm. In R. Nelson, D. Trubek & R. Solomon (Eds.), *Lawyers' ideals/lawyers' practices, Transformations in the American legal profession* (pp. 31-62). Ithaca, N.Y.: Cornell University Press.
- Gannon, M. & Mihorean, K. (2005). Criminal victimization in Canada, 2004. *Juristat*, 25(7), Statistics Canada, Catalogue no. 85-002-XIE. Ottawa.

- Geiger, F. (2001). Courthouse violence: The view from the bench. *Annals of the American Academy of Political and Social Science*, 576(1), 102–108.
- Geok-choo, L., Kwok-bun, C. & Yiu-chung, K. (2008). Work stress and coping amongst lawyers in Singapore. *Asian Journal of Social Science*, 36(5), 703.
- Gerberich, S.G., Church, T.R., McGovern, P.M., Hansen, H., Nachreiner, N.M., Geisser, M.S., Ryan, A.D., Mongin, S.J., Watt, G.D., & Jurek, A. (2005). Risk factors for work-related assaults on nurses. *Epidemiology*, 16(5), 704–709.
- Gilbert, P., & Allan, S. (1998). The role of defeat and entrapment (arrested flight) in depression: an exploration of an evolutionary view. *Psychological Medicine*, 28(3), 585–598.
- Glasbeek, H. (2006). Background notes to professionalism and commercialism: The legal profession has sold its soul to Mammon. Paper from the seventh colloquium on the legal profession (October 2006). Retrieved November 2, 2009 from: <http://www.ojen.ca/eng/resources/show.cfm?id=126>
- The Globe and Mail (1978, December 8). *Police should have been at Gans slaying: Chief*, A5
- Greacen, M. & Klein, R. (2001). Statewide planning for court security. *Annals of the American Academy of Political and Social Science*, 576(1), 109–117.
- Government of Newfoundland and Labrador (2005). *Working alone safely: Guidelines for employers and employees*. Retrieved October 7, 2005 from: <http://www.gs.gov.nl.ca/ohs/safety-info/si-working-alone.stm>.
- Graham, R. (2004). *Legal ethics: Theories, cases and professional regulation*, Toronto: Emond Montgomery Publications.
- Gramlow, R.W. & Linton, R.B. (2000). *The Nature of the process for assessing solicitor & client bills*. Toronto: RWG Consulting Ltd.
- Gray, C. (2007). Reaching out or overreaching: Judicial ethics and self-represented litigants. *Justice System Journal*, 28(3), 452.
- Hagan, F. (1989). *Research methods in criminal justice and criminology*. (2nd ed.). New York: Macmillan.

- Hanlon, G. (1997). A profession in transition? — Lawyers, the market and significant others. *The Modern Law Review*, 60(6), 798–822.
- Hanratty, M., O’Neal, E., & Sulzer, J. (1972). Effect of frustration on imitation of aggression. *Journal of Personality and Social Psychology*, 21(1), 30–34.
- Hansen, M. (1998). Lawyers in harm’s way. *American Bar Association Journal*, March, 1998, 84, 93.
- Hardenbergh, D. & Weiner, N. (2001). Preface. *Annals of the American Academy of Political and Social Science*, 576(1), 8-18
- Harris, M. (1976). Instigators and inhibitors of aggression in a field experiment. *Journal of Social Psychology*, 98, 27–38.
- Harris, D., Kirschner, C., Rozek, K. & Weiner, N. (2001). Violence in the judicial workplace: One state’s experience. *Annals of the American Academy of Political and Social Science*, 576(1), 38-53.
- Heinz, J.P., Nelson, R.L., & Laumann, E.O. (2001). The scale of justice: Observations on the transformation of urban law practice. *Annual Review of Sociology*, 27(1), 337–362.
- Hengstler, G. (1993). *Vox Populi: The public perception of lawyers: ABA Poll*. *American Bar Association Journal*, 79(9), 60–66.
- Hesketh, K.L., Duncan, S.M., Estabrooks, C.A., Reimer, M.A., Giovannetti, P., Hyndman, K. , & Acorn, S. (2003). Workplace violence in Alberta and British Columbia hospitals. *Health Policy*, 63(3), 311–321.
- Hollander, E., Baker, B., Kahn, J. & Stein, D. (2006). Conceptualizing and assessing impulse-control disorders. In E. Hollander and D. Stein (Eds.), *Clinical Manual of Impulse-Control*. Washington, D.C.: American Psychiatric Publishing, Inc., 1.
- Horner, J. (2007). *Canadian law and the Canadian legal system*. Toronto, Ontario: Pearson Education Canada.
- Houston, R., & Stanford, M. (2004). Electrophysiological substrates of impulsiveness: potential effects on aggressive behaviour. *Progress in Neuro-Psychopharmacology & Biological Psychiatry*, 29(2), 305–313.

- Huffington, A. (1998, October 14). Margin of arrogance is huge for pollsters, *Chicago Sun-Times*, 43.
- Islam, S., Edla, S., Mujuru, P., Doyle, E., & Ducatman, A. (2003). Risk factors for physical assault. *American Journal of Preventive Medicine*, 25(1), 31-37.
- Jeffery, C. (1971). *Crime prevention through environmental design*. Beverly Hills, Calif.: Sage Publications.
- Jenkins, D. (2001). The U.S. Marshals Service's threat analysis program for the protection of the federal judiciary. *Annals of the American Academy of Political and Social Science*. 576(1), 69-77.
- Kay, F. & Wallace, J. (2010). Is more truly merrier? Mentoring and the practice of law. *Canadian Review of Sociology*, 47(1), 1-26.
- Kelson, S. (2001). An increasingly violent profession. *Utah Bar Journal*. Retrieved from <http://www.utahbarjournal.com/html>.
- Kling, R., Yassi, A., Smailes, E., Lovato, C., & Koehoorn, M. (2009). Characterizing violence in health care in British Columbia. *Journal of Advanced Nursing*, 65(8), 1655-1663.
- Kovachevich, E. & Waksler, G. (1991). The legal profession: Edging closer to death with each passing hour. *Stetson Law Review*, 20, 419-423.
- Lambert, N.M., Sandoval, J., & Sassone, D. (1978). Prevalence of hyperactivity in elementary school children as a function of social system definers. *American Journal of Orthopsychiatry*, 48, 446-463.
- Law Society of British Columbia. *Professional Conduct Handbook*. Retrieved on November 1, 2010 from, http://www.lawsociety.bc.ca/publications_forms/handbook/handbook_toc.html
- Law Society of British Columbia (2011, March 14). *Province-wide Poll*. Retrieved on May 21 from: <http://www.lawsociety.bc.ca/page.cfm?cid=2042&t=Poll-shows-public%27s-perception-of-lawyers-and-Law-Society-is-trending-upward>
- Lazarus, R., Averill, J. & Opton, E. (1970). Toward a cognitive theory of emotion. In M. Arnold (Ed.). *Feelings and emotions*. New York: Academic Press.

- LeBlanc, M. & Kelloway, E. (2002). Predictors and outcomes of workplace violence and aggression. *Journal of Applied Psychology, 87*(3), 444–453.
- Leger Marketing (2003, February 17). *How Canadian Perceive Various Professions*. Retrieved November 11, 2009 from: <http://www.legermarketing.com/eng/Tencan.asp?p=21>
- Lerman, L. (1990). Lying to clients. *University of Pennsylvania Law Review, 138*(3), 659–760.
- Lerman, L. (1999). Blue-chip bilking: Regulation of billing and expense fraud by lawyers. *Georgetown Journal of Legal Ethics, 12*, 205–365.
- Levin-Rozalis, M. (2007). Playing by the rules: Social representations of “law” as the socio-cognitive mediating mechanism between law and society. *Theory & Psychology, 17*(1), 5–31.
- Loeber, R., & Dishion, T. (1983). Early predictors of male delinquency: A review. *Psychological Bulletin, 94*(1), 68–99.
- Lind, E. (1997). Litigation and claiming in organizations: Antisocial behavior or quest for justice? In R. Giacalone and J. Greenberg (Eds.). *Antisocial Behavior in Organizations*. Thousand Oaks, Calif.: Sage Publications, 150.
- Linowitz, S. (1994). *The betrayed profession: Lawyering at the end of the twentieth century*, Toronto: Maxwell Macmillan Canada Inc.
- Macey, J. (2005). Lawyers, self-regulation, and the idea of a profession. *Fordham Law Review, 74*, 1079.
- Marron, K. (2006). Uncivil Law. *Canadian Lawyer, 30*(5), 16.
- Martino, V. (2003). Work-related violence. In Wilhelm Heitmeyer & John Hagen (Eds.) *International handbook of violence research* (pp. 885–902). The Netherlands: Kluwer Academic Publishers.
- Mauer, V., Thomas, R., & DeBooth, P. (1999). Attorney fee arrangements: The U.S. and Western European perspectives. *Northwestern Journal of International Law & Business, 19*, 272–329.
- Michalos, A. & Zumbo, B. (2000). Criminal victimization and quality of life. *Social Indicators, 50*(3), 245-295.

- Miles, B. & Huberman, A.M. (1994). *Qualitative data analysis*. Thousand Oaks, CA: Sage Publications.
- Miller, N. (1941). The frustration-aggression hypothesis. *Psychological Review*, 48(4), 337-342.
- Moorhead, R. (2004). Self regulation and the market for legal services. *Cardiff Centre for Ethics, Law and Society*. February, 2004. Retrieved October 15, 2007 from:
<http://www.ccels.cf.ac.uk/archives/publications/2004/moorheadpaper.pdf>
- Mucalov, J. (2004, October). Self-governance, walking the tightrope. *The Canadian Bar Association National*. Retrieved from:
<http://www.cba.org/CBA/national/oct04/cover.aspx>
- Mulgrew, I. (2003, 23 December). Lawyers are a Funny Breed. Criminal Lawyers especially. *The Vancouver Sun*, p B1/Front Section.
- MacKenzie, G. (2006). *Lawyers and ethics: Professional responsibility and discipline*, Toronto: Thomson: Carswell
- McMillan, J. & Schumacher, S. (1997). *Research in education: A conceptual introduction*. New York: Longman.
- McMonagle, G. (1990). The demise of professionalism. *New York State Bar Journal*. May, 1990, p. 19.
- McMurrin, M., Blair, M., & Egan, V. (2002). An investigation of the correlations between aggression, impulsiveness, social problem-solving, and alcohol use. *Aggressive Behavior*, 28(6), 439-445.
- Nelson, R., & Trubek, D. (1992). Introduction. In R. Nelson, D. Trubek & R. Solomon (Eds.). *Lawyers' Ideals/Lawyers' Practices, Transformations in the American Legal Profession* (pp. 1 - 27). Ithaca, N.Y.: Cornell University Press.
- Newman, O. (1973). *Defensible space: Crime prevention through urban design*. New York: Macmillan.
- O'Connor, D., Archer, J., & Wu, F. (2001). Measuring aggression: Self-Reports, partner reports, and responses to provoking scenarios. *Aggressive Behavior*, 27(2), 79-101.

- Ontario Bar Association (2003). *Ontario Bar Association Calls on Governments to Act on Lawyer Safety*. Retrieved November, 2009 from, http://www.oba.org/En/main/home_en/Newsdetails.aspx?no=NEWS12092003-943-1E
- Palys, T. (2003). *Research Decisions: Quantitative and Qualitative Perspectives* (3rd. ed.). Scarborough: Thomson Nelson
- Pearce, R. (1995). The professional paradigm shift: Why discarding professional ideology will improve the conduct and reputation of the Bar. *New York University Law Review*, 70(6) 1229–1276.
- Peltz, R. (1989). Legal advertising – Opening Pandora’s box. *Stetson Law Review*, 19(1), 43–51.
- Pensa, C. (2007). *Lawyers in the community*. Paper from the eighth colloquium on the legal profession (May 2007). Retrieved November 2, 2009 from: <http://www.ojen.ca/eng/resources/show.cfm?id=132>
- Personal Security Handbook (2005). Ontario Bar Association – The Ontario Branch of the Canadian Bar Association.
- Professional Conduct Handbook (2009). Retrieved November 2, 2010 from: http://www.lawsociety.bc.ca/publications_forms/handbook/handbook_toc.html
- Pulkkinen, L., & Hurme, H. (1984). Aggression as a predictor of weak self-control. In *Human Action and Personality, Jyvaskyla studies in Education, Psychology and Social Research*, No. 54 (pp. 172–189). University of Jyvaskyla, Finland.
- Quebec Conference (2008, October). *Symposium on Systemic Response to Threats and Intimidation Towards Justice Officials*. Quebec City, Quebec, Canada.
- R. v. Lehoux*, [1997] BCJ No. 2659 (Quicklaw).
- R. v. Lehoux*, [1997] BCJ No. 2067 (Quicklaw).
- Re, E. (1994). The causes of popular dissatisfaction with the legal profession. *St. John’s Law Review*, 68(85), 85–94.

- Rehnquist, Chief Justice (1987). Dedicatory address: The legal profession today. *Indiana Law Journal*, 62(2), 151-157.
- Rhode, D. (2000). *In the interests of justice: Reforming the legal profession*, New York: Oxford University Press.
- Richmond, D. (2000). The new law firm economy, billable hours and professional responsibility. *Hofstra Law Review*, 29, 207-234.
- Ross, W. (1996). *The honest hour: The ethics of time-based billing by attorneys*. Durham, N.C.: Carolina Academic Press.
- Runyan, C., Zakocs, R., & Zwerling, C. (2000). Administrative and behavioral interventions for workplace violence prevention. *American Journal of Preventive Medicine*, 18(4) Supplement, 116-127.
- Samborn, R. (1993). Anti-lawyer attitude up. *National Law Journal*, 15(49), 1.
- Schafer, S. (1968). *The Victim and his criminal*. New York: Random House.
- Scherer, K., Schorr, A., & Johnstone, T. (2001). *Appraisal processes in emotion*. New York: Oxford University Press.
- Schmitz, C. (2005, 13 August). Violence Against Lawyers Increasing. *Vancouver Sun*, p. A3
- Schratz, J. (1998). I told you to fire Nicholas Farber – A psychological and sociological analysis of why attorneys overbill. *Rutgers Law Review*, 50, 2211-2226.
- Schuldt, B. A., & Totten, J. W. (1994). Electronic mail vs. mail survey response rates. *Marketing Research*, 6(1), 36-39.
- Seagram, B. & Stark-Adamec, C. (1992). Women in Canadian urban policing. Why are they leaving? *Police Chief*, 59(10), 120.
- Shestack, J. (1998). ABA releases report on professionalism efforts. *Human Rights: Journal of the Section of Individual Rights and Responsibilities*, 25(2), 1-4.
- Siegel, L., & McCormick, C. (2010). *Criminology in Canada – theories, patterns and typologies* (4th ed.). Toronto: Nelson Education.
- Simon, W. (2003). Who needs the Bar?: Professionalism without monopoly. *Florida State University Law Review*, 30, 639-658. Retrieved from:

- <http://www.lexisnexis.com.proxy.lib.sfu.ca/hottopics/lnacademic/?verb=sr&csi=7417>
- Slayton, P. (2006). Lawyers, liability and the firm. *Canadian Lawyer*, 30(2), 24.
- Sorensen, J. (2003). Lawyer abuse: Crossing the line. *Canadian Lawyer*, 27(10), 25.
- Stanford, M., Houston, R., Villemarette-Pittman, N., & Greve, K. (2003). Premeditated aggression: clinical assessment and cognitive psychophysiology. *Personality and Individual Differences*, 34(5), 773–781.
- Stauss, B., Schmidt, M., & Schoeler, A. (2005). Customer frustration in loyalty programs. *International Journal of Service Industry Management*. 16(3), 229–252.
- Stern, G. (2002). Polishing the image. *The National Law Journal*. Retrieved February 6, 2006 from:
<http://www.law.com/jsp/article.jsp?id=1030821219888>
- Sullivan, W., Colby, A., Wegner, J., Bond, L., & Shulman, L. (2007). *Educating lawyers: Preparation for the profession of law*. San Francisco: Jossey-Bass.
- Swoboda, S. J., Muehlberger, N., Weitkunat, R., & Schneeweiss, S. (1997). Internet surveys by direct mailing: An innovative way of collecting data. *Social Science Computer Review*, 15(3), 242-255.
- Tanovich, D. (2005). Law's ambition and the reconstruction of role morality in Canada. *Dalhousie Law Journal*, 28(2), 267–310.
- Termine, N., & Izard, C. (1988). Infants' responses to their mothers' expressions of joy and sadness. *Developmental Psychology*, 24(2), 223–229.
- Tibbetts, J. (1999, October 22). "Lawyer fees 'astronomical.'" *National Post*, A4.
- _____. (2004, August 17). Justice Minister Urges Lawyers to work more for free. *The Vancouver Sun*, p. A3.
- _____. (2008, July 7). Lawyers could go the way of the dodo, magazine suggests. *The Vancouver Sun*, p. A5.
- Varro, J. & Perell, P. (2004). *Elements of professionalism* (Paper from the third colloquium on the legal profession (October 2004). Retrieved on

- November 2, 2009 from:
<http://www.ojen.ca/eng/resources/show.cfm?id=103>
- Von Hentig, H. (1948). *The Criminal and his victims: Studies in the sociobiology of crime* New Haven, Conn: Yale University Press.
- Vonk, R. (1998). The slime effect: suspicion and dislike of likeable behaviour toward superiors. *Journal of Personality and Social Psychology*, 74(4), 849-864.
- Warren, R. (2001). Violence in the judicial workplace. *Annals of the American Academy of Political and Social Science*, 576(1), 19-22.
- Wax, J. (1992). Stop violence in the courthouse. *The National Law Journal*. August 24, 1992.
- Weiner, N., Harris, D., Calhoun, F., Flango, V., Hardenberg, D., Kirschner, C., O'Reilly, T., Sobolevitch, R. & Vossekul, B. (2000). Safe and secure: Protecting judicial officials. *Court Review - Winter*, 2000, 26-33.
- Weiner, N. & Hardenbergh, D. (2001). Understanding and controlling violence against the judiciary and judicial officials. *Annals of the American Academy of Political and Social Science*. 576(1) (July), 23-37.
- Welsh, B., & Farrington, D. (2004). Surveillance for crime prevention in public space: Results and policy choices in Britain and America. *Criminology & Public Policy*, 3(3), 497-526.
- Wendel, W.B. (2005). Professionalism as Interpretation. *Northwestern University Law Review*, 99(3), 1167-1234.
- Wilhemlson, M. (2004). Public's perception of B.C. lawyers found to be slipping. *The Lawyers Weekly*, 23(44), 1.
- Wilkinson, C. (2001). Violence prevention at work: A business perspective. *American Journal of Preventative Medicine*, 20(2), 155-160.
- Woolley, A. (1996). Integrity in zealousness: Comparing the standard conceptions of the Canadian and American lawyer. *Canadian Journal of Law and Jurisprudence*, 9(1), 61-100.

- _____ (2004). Time for change: Unethical hourly billing in the Canadian profession and what should be done about it. *The Canadian Bar Review*, 18(3), 859-894.
- _____ (2005). Evaluating value: A historical case study of the capacity of alternative billing methods to reform unethical hourly billing. *International Journal of the Legal Profession*, 12(3), 339-365.
- Wingrove, J., & Bond, A. (2005). Correlation between trait hostility and faster reading times for sentences describing angry reactions to ambiguous situations. *Psychology Press*, 19(3), 463-472.
- Wynne, R., Clarkin, N., Cox, T. & Griffiths, A. (1996). *Guidance on the prevention of violence at work*. European Commission, Directorate general V., Brussels – Luxembourg.
- Yassi, A. & McLean, D. (2001). Violence in health care. *Clinics in Occupational and Environmental Medicine*, 1(2), 279-303.
- Yoder, D. (2006). We've all heard about the problem. Consider one solution 50-50 plan for equal justice. *Tennessee Bar Journal*, 42(1), 22-23.
- Zillmann, D. (1979). *Hostility and aggression*. Hillsdale, NJ: Erlbaum.
- Zillmann, D., Bryant, J., Comisky, P., & Medoff, N. (1981). Excitation and hedonic valence in the effect of erotica on motivated intermale aggression. *European Journal of Social Psychology*, 11(3), 233-252.

APPENDICES

APPENDIX 1.
PUBLIC OPINION POLL
(WEB SURVEY)

This preview shows all your questions on one page, the actual survey delivery will display one question per page for clarity

Answer the required questions and click "Submit" to see what the "submitted" questions look like

Click Edit to change an answer

Click Close when you are finished previewing

WHAT DO YOU THINK ABOUT LAWYERS?

Please be advised that your identity will remain strictly confidential and all data collected by the Simon Fraser University computer system is securely stored and completely controlled by the University's privacy policies regarding personal data.

Q1 . What is your gender?

Male

Female

Q2 . What is your age?

19 - 24

25 - 34

35 - 49

50 - 64

65 years and older

Q3 . What is your education?

University graduate

Some university education

High School graduate

Some high school education

Q4 . What is your marital status?

Married
Divorced
Single
Widowed
Common-law

Q5 . What is your occupation?

Skilled/semi-skilled labourer
Tradesperson
Mid-level professional
High-level professional
Executive
Salesperson
White-collar worker
Housewife/Househusband
Retiree
Student
Unemployed
Other

Q6 . What is your race?

Chinese
South Asian
Caucasian
Arab/West Asian
South Asian
Japanese
Pacific Islander
Polynesian
West Indian
Black
Filipino
Latin American
Korean
Fijian
Guyanese
Aboriginal
Other

Q7 . What was your annual household income for 2005?

- Less than \$20,000
- \$20,000 to \$39,999
- \$40,000 to \$49,999
- \$50,000 to \$74,999
- \$75,000 and over

Q8 . In the last five years, did you seek advice or consult with a lawyer about any matter?

- Yes
- No

Q9 . Please indicate the overall satisfaction with the legal services you received in the last five years.

- No legal contact with a lawyer in the last five years
- Completely satisfied
- Somewhat satisfied (more satisfied than dissatisfied)
- Somewhat dissatisfied (more dissatisfied than satisfied)
- Completely dissatisfied

Q10 . How much trust and confidence do you have in lawyers and the legal profession?

- A great deal
- Some
- A little
- None at all

Q11 . Your OVERALL impression of Canadian lawyers is currently:

- Excellent
- Good
- Fair
- Poor
- Dismal

Q12 . Your OVERALL impression of lawyers is drawn PRIMARILY from:

- Past or current legal experiences
- Authoritative Texts (legal books, journals, academic articles)
- News accounts (newspapers, radio, television news)
- Entertainment (television, movies, novels)
- Legal Advertising
- Combination of the above, namely: (please complete in the next question)
- Other: (please complete in the next question)

Q13 . With respect to question #12 above, if your overall impression of lawyers is drawn primarily from a “combination” or “other”, please state below: (leave blank if not applicable)

Q14 . Which one of the following four phrases most closely represents your view of the most POSITIVE aspect of lawyers

Lawyers uphold and protect the Canadian justice system.

Lawyers protect citizens’ rights.

Lawyers’ roles are important in affecting social change.

Lawyers put clients’ interests first.

None of the above.

Q15 . Which one of the following four phrases most closely represents your view of the most NEGATIVE aspect of lawyers.

Lawyers are too interested in money.

Lawyers file too many unnecessary lawsuits.

Lawyers manipulate the legal system without regard for right or wrong.

Lawyers are too interested in representing corporations and not people.

None of the above.

Q16 . Please indicate your PERSONAL LEVEL of knowledge of Canadian laws including the Charter of Rights and Freedoms, the justice/court system and lawyers’ roles in the justice/court system. This personal knowledge must be obtained from high school or post-secondary legal courses, personal experiences and/or information obtained from credible legal authorities (not information obtained from entertainment sources).

Extremely knowledgeable (100%)

Very knowledgeable (75%)

Some knowledge (50%)

Little knowledge (25%)

No knowledge (0%)

Q17 . Since recent survey findings indicate some B.C. lawyers are receiving work-related abuse, we would like your comments and suggestions as to what lawyers can do to avoid threats and abuse against them in the future, for example, on changes in behaviour, strategies, law/policy reforms, and so on.

Q18 . Please name the city and country where you reside.

Answer :

CONCLUSION

WE WOULD LIKE TO THANK YOU FOR TAKING THE TIME TO COMPLETE THIS SURVEY. By completing this survey, you are giving your consent to releasing information requested in each question. The website is secure so anonymity is protected to the best of the researcher's ability and although there is always an extremely slim chance that breaches may occur in the electronic medium, Simon Fraser University's computer system is securely stored and completely controlled by the University's privacy policies regarding personal data. If you have any questions or concerns about this research project, or would like copies of the research findings, please contact either: Karen Brown Ph.D. Student School of Criminology Simon Fraser University 8888 University Drive, Burnaby, B.C. V5A 1S6 OR Dr. Margaret Jackson School of Criminology Simon Fraser University 8888 University Drive, Burnaby, B.C. V5A 1S6

Bottom of Form

©1999-2011 , Simon Fraser University Session Expires: 2011-03-01 06:38 PM

APPENDIX 2.

VIOLENCE AND THREATS AGAINST LAWYERS

(WEB SURVEY)

This preview shows all your questions on one page, the actual survey delivery will display one question per page for clarity

Answer the required questions and click “Submit” to see what the “submitted” questions look like

Click Edit to change an answer

Click Close when you are finished previewing

Top of Form

VIOLENCE AND THREATS AGAINST LAWYERS

PURPOSE OF THE STUDY

I am canvassing practicing lawyers across Canada to ascertain whether abuse, threats and/or violence are problems for Canadian lawyers. Unlike their American counterparts, Canadian lawyers have not received the same academic, governmental and media attention with regard to risk and victimization. Nevertheless, some lawyers encounter abuse, threats and violence from various sources as a result of discharging professional responsibilities, while others do not. I would like to hear from all practicing lawyers, whether they have received threats or not, since it is important that information from all sectors of the legal community is received. Your experiences and opinions on this topic will assist other lawyers and the legal community as a whole on this very serious issue. Responses to this survey will be analyzed and reported to the Canadian Bar Association and to provincial law societies so that potential risks and victimization can be addressed, and prevention or intervention strategies can be developed.

ETHICS

You have the right to refuse to answer any questions in this survey, and you may terminate and exit the survey at any time should you so wish. I am not seeking any legally sensitive data. Your identity will remain strictly confidential and all data collected is securely stored on the researcher’s computer located at Simon Fraser University computer, and handled in accordance with the University’s privacy policies regarding personal data. By completing this survey, you are giving your consent to participate and to release information requested in each question. If you have any concerns with your participation in this survey, you may contact the Director of the Office of Research Ethics for Simon Fraser University: Dr. Hal Weinberg Director, Office

of Research Ethics Office of Research Ethics Simon Fraser University 8888 University Drive Multi-Tenant Facility Burnaby, B.C. V5A 1S6 hal_weinberg@sfu.ca You may obtain copies of the results of this study, upon its completion by contacting: Karen Brown, c/o Simon Fraser University, 8888 University Drive, Burnaby, B.C. V5A 1S6. Phone: 604-418-0552, knb@sfu.ca

INSTRUCTIONS

THE FOLLOWING QUESTIONS ASK YOU TO REMEMBER THE SPECIFIC TYPES OF AGGRESSION THAT YOU HAVE EXPERIENCED SOLELY IN RELATION TO YOUR WORK AS A LEGAL PRACTITIONER AND TO INDICATE HOW OFTEN THESE INCIDENTS HAVE OCCURRED.

AGGRESSION

The following questions ask you to remember the specific types of NON-PHYSICAL AND PHYSICAL aggression (as set out in Questions 1 and 2 and Questions 5 and 6) that you have experienced and to indicate how often these incidents occur. For example, if you have received 4 incidents of inappropriate communications, write the number 4 in the box beside inappropriate communications; if you have twice been inappropriately approached, write number 2 in the box.

Q.1 If you have been the recipient of any of the following types of NON-PHYSICAL AGGRESSION WITHIN THE PAST YEAR, please answer all that apply by listing your best count of each:

None (go to Question #2) :

Inappropriate (odd, ominous, troubling) communications (e.g. by letter, phone, email, text messaging or fax) :

Threatening (explicit) communications (e.g. by letter, phone, email, text messaging or fax) :

Non-physical aggression (e.g. being followed or stalked, face-to-face confrontations or attempts) :

Death Threats :

Q.2 If you have been the recipient of PHYSICAL AGGRESSION WITHIN THE PAST YEAR, please answer all that apply by listing your best count of each:

None (go to Question #3) :

Hit :

Slapped :

Pushed :

Grabbed :

Scratched :

Pinched :

Kicked :

Knifed :

Shot :

Other (please specify):

Q.3 Given your response(s) above, have you experienced any of the following reactions/injuries to those incidents received in the past year?

None - (go to Question #5)

Psychological responses (anger, anxiety, nervousness, confusion, sleeping difficulties)

Bruises, black eye(s), scratches

Cuts

Internal injuries, knocked unconscious, concussion

Broken bones or teeth knocked out

Knife wounds

Gunshot wounds

Other type(s) of reactions/injuries (please elaborate):

Are there any further details with regard to your specific reaction/injury on which you would like to elaborate?

Q.4 Did you receive any medical or dental attention required as a result of the aggression in the last year?

Yes

No

Q.5 If you have been the recipient of any of the following types of NON-PHYSICAL AGGRESSION IN THE PAST FIVE YEARS (or since you started practicing law if under 5 years) (APART from those experiences of aggression in the past year), please answer all that apply by listing your best count of each:

None (go to Question #6) :

Inappropriate (odd, ominous, troubling) communications (e.g. by letter, phone, email, text messaging or fax) :

Threatening (explicit) communications (e.g. by letter, phone, email, text messaging or fax) :

Non-physical approaches (e.g. being followed or stalked, face-to-face confrontations or attempts) :

Death Threats :

Q.6 If you have been the recipient of PHYSICAL AGGRESSION IN THE PAST FIVE YEARS (or since you started practicing law if under 5 years) (APART from those experiences of aggression in the past year) please answer all that apply by listing your best count of each:

None (go to Question #7) :

Hit :

Slapped :

Pushed :
Grabbed :
Scratched :
Pinched :
Kicked :
Knifed :
Shot :
Other (please specify):

Q.7 Given your response(s) above, have you experienced any of the following reactions/injuries to those incidents that occurred in the last FIVE YEARS (or since you started practicing law if under 5 years) (APART from reactions/injuries suffered in the past year).

None (go to Question #9):

Psychological responses (anger, anxiety, nervousness, confusion, sleeping difficulties)

Bruises, black eye(s), scratches

Cuts

Internal injuries, knocked unconscious, concussion

Broken bones or teeth knocked out

Knife wounds

Gunshot wounds

Other type(s) of reactions/injuries (please elaborate):

Are there any further details with regard to your specific reaction/injury on which you would like to elaborate?

Q.8 Did you receive any medical or dental attention required as a result of the aggression (apart from those incidents in the last year)?

Yes

No

Q.9 With regard to those incidents received in the last FIVE YEARS including those incidents received in the past year, what protective measures have you taken?

Not applicable

Did Nothing

Changed routine, activities and/or avoided certain places

Installed new locks or security bars

Installed burglar alarms or motion detector lights

Took a self-defence course

Changed phone numbers

Changed security measures in your place of business

Obtained a weapon (e.g. pepper spray, gun, etc.)

Other (please specify):

Q.10 Please select ALL the applicable locations where you received the aggression in the PAST FIVE YEARS including aggression in the past year:

Not applicable

Business office/elevator/reception/lobby

In your own home/home office

In a Courtroom

In the hallway outside the Courtroom

On the sidewalk outside the Courthouse

On the sidewalk near your home

On the sidewalk/street near your business

In the parking lot of your business office

On your home driveway/garage

On any other sidewalk/street

On public transportation (subway, bus, train)

In your car

In a restaurant, food court, pub, bar

On a cellular phone

Other (please specify):

Q.11 In relation to ALL TYPES OF AGGRESSION received in the last FIVE YEARS including aggression in the past year, if you can, please describe YOUR AGGRESSOR (e.g. age, gender, relationship to you - client, opposing client, accused, victim, victim's family, etc.).

Q.12(a) Do you know or believe your aggressor consumed alcohol before the aggressive act?

Yes

No

I do not know

Not applicable

Q.12(b) Do you know or believe your aggressor ingested or inhaled other drugs before the aggressive act?

Yes

No

I do not know

Not applicable

Q.12(c) Do you know or believe your aggressor has a history of violence?

- Yes
- No
- I do not know
- Not applicable

Q.12(d) Do you know or believe your aggressor has a mental disorder?

- Yes
- No
- I do not know
- Not applicable

Q.13 In your opinion, do you think aggression against lawyers has:

- Increased over the last 10 years
- Decreased over the last 10 years
- Remained about the same
- I do not really know

Q.14 Is there anything else you would like to tell us about aggression against lawyers? If you are a LAWYER WHO HAS NOT RECEIVED ANY AGGRESSION, please share your thoughts and opinions on this topic. It is important that lawyers' voices be heard in this study.

DEMOGRAPHICS

Q.15 What is your gender?

- Male
- Female

Q.16 What is your age?

- 30 years or under
- 31 to 40
- 41 to 50
- 51 to 60
- 61 or older

Q.17 Please describe your place of business.

- Sole Practitioner
- Small law firm
- Medium law firm
- Large law firm
- Government

Company (other than law firm)

Other (please specify):

Q.18 If not a sole practitioner, please define your status:

Articling Student

Junior Associate

Senior Associate

Junior Partner

Senior Partner

Semi-Retired

Retired

Associate Counsel

Other (please specify):

**Q.19 What area of law were you practicing when you experienced the aggression?
(Please check all that apply). If you have NOT received any aggression, please
indicate your primary practice area (Please check all that apply).**

Criminal Defence

Provincial Prosecutor

Federal Prosecutor

Corporate/Commercial

Labour/Employment/Human Rights

General Litigation

Maritime

Aboriginal

Family/Divorce

Wills/Estates

Securities

Administrative

Environmental

Technology

Real Estate

Other (please specify):

Q.20 In which province or territory do you PRIMARILY practice?

British Columbia

Alberta

Saskatchewan

Manitoba

Ontario

Quebec
New Brunswick
Nova Scotia
Prince Edward Island
Newfoundland and Labrador
Nunavut
Northwest Territories
Yukon Territory

Q.21 How many year(s) have you been practicing law?

I am seeking volunteers who are willing to share their ideas, opinions, facts, experiences, insights or rebuttals on this topic. The interview process will take approximately 20 - 30 minutes at a time convenient for you. Confidentiality of all responses and anonymity will be assured as will your right to refuse to answer any of the questions asked during the interview. In this regard, I will not be seeking any legally sensitive or personal data. If you are interested, please leave your contact information to participate in the second phase of this study. The interviews will be either in person or over the telephone.

Bottom of Form

©1999-2011 , Simon Fraser University Session Expires: 2011-03-01 06:38 PM

APPENDIX 3.

MENACES ET VIOLENCE ENVERS LES AVOCATS

(WEB SURVEY)

This preview shows all your questions on one page, the actual survey delivery will display one question per page for clarity

Answer the required questions and click "Submit" to see what the "submitted" questions look like

Click Edit to change an answer

Click Close when you are finished previewing

Top of Form

MENACES ET VIOLENCE ENVERS LES AVOCATS

BUT DE L'ENQUÊTE

Je mène une étude auprès des avocats exerçant leur profession au Canada pour essayer de découvrir si les abus, les menaces et/ou les actes de violence constituent des problèmes aux yeux des avocats canadiens. Contrairement à leurs confrères et consoeurs des États-Unis, les avocats canadiens n'ont pas fait l'objet de la même attention de la part des milieux académiques, du gouvernementaux ou des médias pour ce qui a trait aux risques et à la victimisation. Il n'empêche que certains avocats sont parfois l'objet d'abus, de menaces et de violences dans le cadre de l'exercice de leur profession alors que d'autres n'ont jamais rencontré ce genre de problème. J'aimerais savoir si les avocats exerçant leur profession ont reçu des menaces ou non. Il est important que de tels renseignements proviennent de tous les secteurs du milieu juridique. Vos expériences et opinions sur ce sujet très important pourront aider d'autres avocats et le monde juridique dans son ensemble. Les réponses à cette étude seront analysées et communiquées à l'Association du Barreau canadien et aux associations provinciales d'avocats pour qu'elles puissent aborder les questions du risque et de la victimisation et élaborer des stratégies de prévention ou d'intervention.

ÉTHIQUE

Vous avez le droit de refuser de répondre à n'importe quelle question de cette étude et vous pouvez, si vous le désirez, mettre fin à l'étude à tout moment. Je ne recherche nullement à obtenir des données que l'on pourrait qualifier de « délicates ». Votre anonymat sera rigoureusement conservé et toutes les données recueillies seront stockées de manière absolument sûre dans l'ordinateur de la chercheuse, lequel est couplé à l'ordinateur de l'Université Simon Fraser, et traitées en stricte conformité aux politiques

de l'Université en matière de renseignements personnels. En répondant à cette étude, vous consentez à participer et à donner les renseignements voulus à chaque question. Si vous avez la moindre question à propos de votre participation à cette étude, vous pouvez prendre contact avec Dr. Hal Weinberg, directeur du Bureau d'éthique en matière de recherche (Office of Research Ethics) de l'Université Simon Fraser par lettre à 8888 University Drive, Multi-Tenant Facility, Burnaby, B.C. V5A 1S6 ou par courriel à l'adresse hal_weinberg@sfu.ca Vous pourrez obtenir des exemplaires des résultats et conclusions de cette étude une fois celle-ci terminée en vous adressant à Karen Brown, c/o Simon Fraser University, 8888 University Drive, Burnaby, B.C. V5A 1S6. Téléphone : 604-418-0552, knb@sfu.ca

INSTRUCTIONS

LES QUESTIONS QUI SUIVENT NE PORTENT QUE SUR LES FORMES D'AGRESSION SPÉCIFIQUES DONT VOUS AVEZ ÉTÉ L'OBJET DANS L'EXERCICE DE VOTRE PROFESSION D'AVOCAT. IL VOUS SERA DEMANDÉ COMBIEN DE FOIS DE TELS INCIDENTS ONT EU LIEU.

AGRESSION

Les questions qui suivent font appel à votre mémoire et portent sur les formes d'agression PHYSIQUES et NON PHYSIQUES (comme il est exposé aux Questions 1 et 2 et aux Questions 5 et 6) dont vous avez été l'objet. Vous devrez également signaler combien de fois de tels incidents se sont produits. Ainsi, par exemple, si vous avez reçu 4 communications inopportunes, inscrivez le chiffre 4 dans la case située en regard des mots « Communications inopportunes » ; si on vous a approché(e) à deux reprises de manière inopportune, inscrivez 2 dans la case voulue.

Q.1 Si vous avez fait l'objet d'une des formes d'AGRESSION NON PHYSIQUE AU COURS DE L'ANNÉE DERNIÈRE, veuillez en signaler le nombre :

Aucune (passer à la Question 2) :

Communications inopportunes (étranges, inquiétantes, troublantes) par lettre, téléphone, courriel, messages textes, télécopieur ou autre :

Communications menaçantes (explicites) par lettre, téléphone, courriel, messages textes, télécopieur ou autre :

Aggression non physique (p.ex. être suivi(e) ou filé(e), confrontations directes ou tentatives) :

Menaces de mort :

Q.2 Si vous avez fait l'objet d'AGRESSIONS PHYSIQUES AU COURS DE L'ANNÉE DERNIÈRE, veuillez en signaler le nombre :

Aucune (passer à la Question 3) :

Frappé(e) :

Giflé(e) :

Poussé(e) :

Empoigné(e) :

Écorché(e) :

Pincé(e) :

Frappé(e) à coup de pied :

Frappé(e) à coup de couteau :

Visé(e)/blessé(e) par balle :

Autre (spécifier)

Q.3 Au vu des réponses fournies ci-dessus, avez-vous subi l'une ou l'autre des conséquences ou des blessures suite à ces incidents endurés au cours de l'année dernière ?

Aucune - (passer à la Question 5)

Séquelles psychologiques (colère, anxiété, nervosité, confusion, troubles du sommeil)

Ecchymoses, oeil au beurre noir, écorchures

Coupures

Blessures internes, perte de connaissance, commotion

Fractures d'os ou perte de dents

Blessures de couteau

Blessures par balle

Autres conséquences ou blessures (prière de préciser):

Voulez-vous ajouter d'autres détails sur les conséquences et/ou blessures suite à des agressions dont vous avez personnellement été victime?

Q.4 Avez-vous dû recevoir des soins médicaux ou dentaires suite à l'agression au cours de l'année dernière?

Oui

Non

Q.5 Si vous avez fait l'objet AU COURS DES CINQ DERNIÈRES ANNÉES (ou, si vous pratiquez le droit depuis moins de cinq ans, depuis la date à laquelle vous exercez la profession d'avocat) d'une des formes d'AGRESSION NON PHYSIQUE (COMPTE NON TENU des agressions éventuelles dont vous avez été victime au cours de l'année écoulée), veuillez en indiquer le nombre :

Aucune (passer à la Question 6) :

Communications inopportunes (étranges, inquiétantes, troublantes) par lettre, téléphone, courriel, messages textes, télécopieur ou autre :

Communications menaçantes (explicites) par lettre, téléphone, courriel, messages textes, télécopieur ou autre :

Agression non physique (p.ex. être suivi(e) ou filé(e), confrontations directes ou tentatives) :

Menaces de mort :

Q.6 Si vous avez fait l'objet AU COURS DES CINQ DERNIÈRES ANNÉES (ou, si vous pratiquez le droit depuis moins de cinq ans, depuis la date à laquelle vous exercez la profession d'avocat) d'une des formes d'AGRESSION PHYSIQUE (COMPTE NON TENU des agressions éventuelles dont vous avez été victime au cours de l'année écoulée), veuillez en indiquer le nombre:

Aucune (passer à la Question 7) :

Frappé(e) :

Giflé(e) :

Poussé(e) :

Empoigné(e) :

Écorché(e) :

Pincé(e) :

Frappé(e) à coup de pied :

Frappé(e) à coup de couteau :

Visé(e)/blessé(e) par balle :

Autre (prière de spécifier):

Q.7 Au vu des réponses fournies ci-dessus, avez-vous subi l'une ou l'autre des conséquences ou des blessures suite à ces incidents endurés au cours des CINQ DERNIÈRES ANNÉES (ou, si vous pratiquez le droit depuis moins de cinq ans, depuis la date à laquelle vous exercez la profession d'avocat) (COMPTE NON TENU des conséquences ou blessures subies au cours de l'année écoulée).

Aucune (passer à la Question 9)

Séquelles psychologiques (colère, anxiété, nervosité, confusion, troubles du sommeil)

Ecchymoses, oeil au beurre noir, écorchures

Coupures

Blessures internes, perte de connaissance, commotion

Fractures d'os ou perte de dents

Blessures de couteau

Blessures par balle

Autres conséquences ou blessures (prière de préciser):

Voulez-vous ajouter d'autres détails sur les conséquences et/ou blessures suite à des agressions dont vous avez personnellement été victime?

Q.8 Avez-vous reçu des soins médicaux ou dentaires suite à l'agression (compte non tenu des soins reçus au cours de la dernière année)?

Oui

Non

Q.9 Suite aux incidents de ces CINQ DERNIÈRES ANNÉES, quelles mesures de protection avez-vous prises ?

Sans objet

Rien fait

Ai modifié ma routine, mes activités et/ou ai évité certains endroits

Ai fait installer de nouvelles serrures ou des barreaux de sécurité

Ai fait installer des avertisseurs antivols ou des détecteurs de mouvement

Ai suivi un cours d'auto-défense

Ai fait changer mes numéros de téléphone

Ai fait modifier les mesures de sécurité sur les lieux de travail

Me suis procuré une arme (p.ex. vaporisateur de gaz poivré, arme de poing ou autres)

Autres (prière de préciser):

Q.10 Veuillez indiquer TOUS les endroits où ont eu lieu les agressions de ces CINQ DERNIÈRES ANNÉES, y compris les agressions éventuelles de la dernière année :

Sans objet

En mon lieu de travail (cabinet)/ascenseur/réception/foyer

À mon domicile/mon bureau à domicile

En salle d'audience

Dans un couloir ou dans le foyer d'un palais de justice

Sur le trottoir d'un palais de justice

Sur un trottoir près de mon domicile

Sur un trottoir ou dans une rue proche de mon cabinet

Dans le stationnement de mon lieu de travail

Dans l'allée menant à mon domicile/garage

Sur un autre trottoir ou dans une autre rue

Dans un véhicule de transport en commun (métro, bus, train)

Dans ma voiture

Dans un restaurant, une aire de restauration rapide, un café, un bar

Par téléphone cellulaire

Autre (prière de préciser):

Q.11 En ce qui concerne TOUTES LES FORMES D'AGRESSION dont vous avez été victime AU COURS DES CINQ DERNIÈRES ANNÉES, y compris celles de l'année venant de s'écouler, veuillez décrire VOTRE AGRESSEUR, si vous le pouvez (p.ex. âge, sexe, relation avec vous - client, partie adverse, accusé(e), victime, membre de la famille de la victime, etc.).

Q.12(a) Savez-vous ou estimez-vous que votre agresseur avait consommé de l'alcool avant de commettre son acte?

- Oui
- Non
- Ne sais pas
- Sans objet

Q.12(b) Savez-vous ou estimez-vous que votre agresseur avait consommé ou inhalé d'autres drogues avant de commettre son acte?

- Oui
- Non
- Ne sais pas
- Sans objet

Q.12(c) Savez-vous ou estimez-vous que votre agresseur avait des antécédents violents?

- Oui
- Non
- Ne sais pas
- Sans objet

Q.12(d) Savez-vous ou estimez-vous que votre agresseur souffrait de troubles mentaux?

- Oui
- Non
- Ne sais pas
- Sans objet

Q.13 Avez-vous l'impression que les agressions contre les avocats:

- Ont augmenté au cours des 10 dernières années
- Ont diminué au cours des 10 dernières années
- Sont demeurées à peu près au même niveau
- Je n'en ai pas la moindre idée

Q.14 Désirez-vous mentionner autre chose en rapport avec les agressions dont sont victimes les avocats? Si vous êtes AVOCAT et si VOUS N'AVEZ PAS ÉTÉ VICTIME DE LA MOINDRE AGRESSION, veuillez nous faire connaître vos pensées et opinions à ce propos. Il est important pour cette étude que les avocats s'expriment.

DONNÉES DÉMOGRAPHIQUES

Q.15 Votre sexe?

Masculin

Féminin

Q.16 Votre âge?

30 ans et moins

31 à 40 ans

41 à 50 ans

51 à 60 ans

61 et plus

Q.17 Endroit où vous pratiquez.

Avocat exerçant seul

Petit cabinet

Cabinet de taille moyenne

Grand cabinet

Gouvernement

Entreprise (à l'exclusion des cabinets d'avocats)

Autre (prière de spécifier):

Q.18 Si vous n'exercez pas seul, veuillez définir votre statut:

Stagiaire

Avocat junior

Avocat senior

Associé

Associé principal

Semi-retraité

Retraité

Conseil adjoint

Autre (prière de spécifier):

Q.19 Dans quel domaine du droit exercez-vous vos activités lorsque vous avez été agressé(e)? (Cochez tous les domaines applicables). Si vous n'avez été victime d'AUCUNE agression, veuillez indiquer le domaine du droit dans lequel vous pratiquez essentiellement. (Cochez tous les domaines applicables).

Avocat de la défense
Procureur provincial
Procureur fédéral
Droit des entreprises/Droit commercial
Droit du travail/Emploi/Droits de la personne
Litiges
Droit maritime
Premières Nations
Droit de la famille/Divorces
Testaments/Successions
Actions, obligations et titres similaires
Droit administratif
Droit de l'environnement
Technologie
Immobilier
Autre (prière de spécifier):

Q.20 Dans quelle province ou territoire exercez-vous ESSENTIELLEMENT votre profession?

Colombie-Britannique
Alberta
Saskatchewan
Manitoba
Ontario
Québec
Nouveau-Brunswick
Nouvelle-Écosse
Île-du-Prince-Édouard
Terre-Neuve et Labrador
Nunavut
Territoires du Nord-Ouest
Yukon

Q.21 Depuis combien d'années exercez-vous le droit?

Answer :

Je recherche également des volontaires désireux de partager leurs idées, opinions, faits, expériences, connaissances ou réfutations sur ce sujet. Les entrevues d'une durée d'environ 20 à 30 minutes auront lieu à un moment acceptable pour vous. La confidentialité de toutes les réponses et l'anonymat des répondants seront garantis. Les répondants ont le droit de refuser de répondre à toute question posée durant l'entrevue. De plus, il n'entre pas dans mes intentions de tâcher d'obtenir des données à caractère personnel ou « délicat » sur le plan juridique. Si vous êtes intéressé(e) à participer à cette seconde phase de l'étude, laissez vos coordonnées ci-dessous. Les entrevues se feront soit en tête-à-tête soit par téléphone.

Après avoir rempli le formulaire sur le site Internet, il a cliqué sur le bouton "envoyer".

Bottom of Form

©1999-2011 , Simon Fraser University Session Expires: 2011-03-01 06:38 PM

APPENDIX 4.

ENGLISH INTRODUCTORY LETTER

SIMON FRASER UNIVERSITY

FACULTY OF ARTS
SCHOOL OF CRIMINOLOGY



BURNABY, BRITISH COLUMBIA
CANADA V5A 1S6
Telephone: (604) 291-3213
Fax: (604) 291-4140

RE: Violence and Threats Against Canadian Lawyers

I am a doctoral candidate at Simon Fraser University in Vancouver, British Columbia and one of the leading researchers on violence and threats against Canadian lawyers. I conducted a similar study in British Columbia in 2005.

I am canvassing practicing lawyers across Canada to ascertain whether abuse, threats and/or violence are problems for Canadian lawyers. I would like to hear from all practicing lawyers, whether they have received threats or not, since it is important that information from all sectors of the legal community is received. Your experiences and opinions on this topic will assist other lawyers and the legal community as a whole on this very serious issue. Responses to this survey will be analyzed and reported to the Canadian Bar Association and to provincial law societies so that potential risks and victimization can be addressed, and prevention or intervention strategies can be developed.

Accordingly, I would request that you complete a short online survey (<http://websurvey.sfu.ca/survey/14085108>). You will not need longer than 5 minutes to complete the survey. I can guarantee confidentiality of identities through the web as I am collecting this information over a Simon Fraser University secured web site

If you wish to review the results of my British Columbia study, please refer to the following journal articles:

Brown, Karen, & MacAlister, David. (2006). Violence and Threats Against Lawyers. *Canadian Journal of Criminology and Criminal Justice*, 48(4), 544-571.

Brown, Karen, & MacAlister, David. (2006) Injured in the Line of Duty: Is the Practice of Law Becoming a high risk occupation? *The International Review of Victimology*, 13(3), 251-274

You can contact me at knb@sfu.ca or by telephone (604) 274-4497 if you require clarification or would like to discuss this project further, or bring concerns to my graduate committee:

David MacAlister, LL.B., LL.M
Assistant Professor
School of Criminology
Simon Fraser University
8888 University Drive
Burnaby, B.C. V5A 1S6
Telephone: (778) 782-3019
Email: dmacalis@sfu.ca

Margaret Jackson, Professor
School of Criminology
Simon Fraser University
8888 University Drive
Burnaby, B.C. V5A 1S6
Telephone: (778) 782-4040
Email: margarej@sfu.ca

Bryan Kinney, Assistant Professor
School of Criminology
Simon Fraser University
8888 University Drive
Burnaby, B.C. V5A 1S6
Telephone: (778) 782-3892
Email: bkinney@sfu.ca

I appreciate your attention to this request and thank you for your participation in this study.

Yours truly,

APPENDIX 5.

FRENCH INTRODUCTORY LETTER

OBJET : Menaces et violence envers les avocats au Canada

Candidate au doctorat à l'Université Simon Fraser à Vancouver en Colombie-Britannique, je suis également une des chercheuses principales dans le domaine des menaces et de la violence envers les avocats du Canada. En 2005, j'ai mené une étude similaire limitée à la Colombie-Britannique.

Je m'adresse aux avocats exerçant leur profession au Canada pour tâcher de découvrir si les abus, menaces et/ou autres formes de violence constituent des problèmes pour eux. J'aimerais obtenir les avis de tous les avocats et avocates qu'ils aient ou non fait l'objet de menaces. Il est important, en effet, que de tels renseignements proviennent de tous les secteurs du milieu juridique. Vos expériences et opinions sur ce sujet très important pourront aider d'autres avocats et le monde juridique dans son ensemble. Les réponses à cette étude seront analysées et communiquées à l'Association du Barreau canadien et aux associations provinciales d'avocats pour qu'elles puissent aborder les questions du risque et de la victimisation et élaborer des stratégies de prévention et d'intervention.

Pour ces motifs, j'aimerais que vous remplissiez un court questionnaire en ligne (<http://websurvey.sfu.ca/survey/14085108>). Cela ne devrait pas vous prendre plus de 5 minutes. La confidentialité et l'anonymat des répondants est garantie vu que, pour recueillir ces données, un site web sécurisé de l'université Simon Fraser est utilisé.

Les conclusions de l'étude menée en Colombie-Britannique ont été publiées dans les articles suivants :

Brown, Karen, & MacAlister, David. (2006). Violence and Threats Against Lawyers. *Canadian Journal of Criminology and Criminal Justice*, 48(4), 544-571.

Brown, Karen, & MacAlister, David. (2006) Injured in the Line of Duty: Is the Practice of Law Becoming a high risk occupation? *The International Review of Victimology*, 13(3), 251-274

Si vous désirez de plus amples renseignements ou si vous désirez vous entretenir de ce projet, vous pouvez prendre contact avec moi à l'adresse knb@sfu.ca ou, par téléphone au (604) 274-4497. Vous pouvez également vous adresser à mon Comité d'études supérieures :

David MacAlister, LL.B., LL.M	Margaret Jackson,	Bryan Kinney, Professeur
Professeur adjoint	Professeure	adjoint
École de criminologie	École de criminologie	École de criminologie
Simon Fraser University	Simon Fraser University	Simon Fraser University
8888 University Drive	8888 University Drive	8888 University Drive
Burnaby, B.C. V5A 1S6	Burnaby, B.C. V5A 1S6	Burnaby, B.C. V5A 1S6
Téléphone : (778) 782-3019	Téléphone : (778) 782-4040	Téléphone : (778) 782-3892
Courriel : dmacalis@sfu.ca	Courriel : margarej@sfu.ca	Courriel : bkinney@sfu.ca

Je vous remercie de la bonne suite que vous voudrez bien réserver à la présente et de votre participation à cette étude.

Avec mes plus sincères salutations,

Karen Brown

APPENDIX 6.

LAWYERS' CONSENT FORM

LAWYERS' CONSENT FORM

Purpose of the Study

The topic of my study is: Is the Canadian legal profession at risk? An analysis of lawyer victimization across Canada. I am arranging brief interviews with respondents to the Internet Survey who are willing to share their ideas, opinions, facts, experiences and/or insights, or rebuttals on this topic. As one of the leading researchers on violence and threats against lawyers, I conducted an extensive study in British Columbia in 2005 and published two articles on the subject. However, there is now an urgent need to assess the amount of abuse, threats and violence against lawyers in other Canadian provinces. The results of my study may be of practical value in developing policies and safety programs for the future. If the participant so requests, I will gladly forward a copy of my finalized report.

Time Required

The interview process will take approximately thirty to sixty minutes. I can arrange to meet you whenever it is convenient for you. There are no foreseeable risks to participate in this study.

Conditions of the Interview

You have the right to refuse to answer any questions during the interview, and you may terminate the interview at any time should you so wish. You have the right to refuse to answer any of the questions asked during the interview. I will not be seeking or recording any legally sensitive or personal data, and I will guarantee confidentiality of your identity. I plan to audiotape and take notes during the interviews and upon completion of the research project, all tapes and notes will be destroyed.

I understand that I may withdraw my participation at any time. I also understand that I may register any complaint with the Director of the Office of Research Ethics.

Dr. Hal Weinberg
Director, Office of Research Ethics
Office of Research Ethics
Simon Fraser University
8888 University Drive
Multi-Tenant Facility
Burnaby, B.C. V5A 1S6
hal_weinberg@sfu.ca

I may obtain copies of the results of this study, upon its completion by contacting:

Karen Brown, c/o Simon Fraser University, 8888 University Drive, Burnaby, B.C. V5A 1S6. Phone: 604-418-0552

Consent

I, _____ understand and agree to the aforementioned terms and hereby agree to participate in the study undertaken by Karen N. Brown, a Ph.D. Candidate at Simon Fraser University.

Date _____ Signature of _____
Participant

I, the undersigned, have defined and fully explained the above to the participant in detail, and to the best of my knowledge it was understood.

Date _____ Signature of _____
Interviewer