

An Exploratory Analysis of Violence and Threats Against Lawyers

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ABSTRACT

Society does not normally consider the practice of law a dangerous occupation, but an increasing number of lawyers are encountering violence and abuse in relation to their work. Thus, are lawyers becoming casualties of their profession? Accordingly, this thesis will summarize the results of an exploratory research project conducted in Vancouver, Canada on members of the Law Society of British Columbia, all of whom practice in the Lower Mainland of British Columbia. A total of 5,539 lawyers were surveyed regarding work-related threats and violence, and 1,200 lawyers responded. In addition, twenty-five lawyers were also interviewed with regard to this topic.

This thesis presents the results of the study and offers univariate and bivariate analyses of numerous factors, together with a review of twenty-five lawyers' personal insights and perspectives into this criminal phenomenon. As a result of the aforementioned analyses, specific issues and problems were identified.

DEDICATION

IN MEMORY of my father, who always told me “better late than never...”

This thesis is dedicated to my most beloved mother, Nancy, from whom I receive my motivation, and to my husband, Jack, for his love, patience and support. And finally to my cherished dog, Sammi, for not condemning me when I reneged on some of those promised walks ...

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INTRODUCTION

Society does not normally consider the practice of law a dangerous occupation, but an increasing number of lawyers, particularly those in specialities such as criminal defence and family law that involve highly emotional plaintiffs and/or defendants, are encountering violence and abuse (Sorensen, 2003). Although very few statistics have been compiled in Canada with regard to violence against lawyers, according to the United States Bureau of Labor Statistics (“BLS”), violence in the workplace has become an urgent safety issue (Commercial Law Bulletin, 1996). The BLS shows that in the United States, although robbery was the motive in the majority of workplace homicides, business associates such as present and former co-workers, customers and clients were the perpetrators in 10 percent of the cases. In fact, in the United States in 1993, six lawyers were murdered, and in 1994, four lawyers and one judge were murdered, all in the workplace (Commercial Law Bulletin, 1996).

Thus, the question arises, are lawyers becoming casualties of their profession? Over the last twenty-five years in Canada, there have been a number of physical attacks and high profile assassinations of lawyers (Brown, 2004). They are as follows:

1. **Frederick Gans**

On December 5, 1978, Frederick Gans, a family and divorce lawyer, was shot and killed in the halls of the Supreme Court of Ontario.

2. Douglas Traill

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

3. Oscar Fonseca

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

4. Frank Shoofey

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.

5. Robert J. Conway

On January 6, 1987, Robert Conway, a discipline lawyer on staff at the Law Society of Upper Canada, was stabbed twice in the chest in a second-floor corridor of Osgoode Hall after leaving a meeting.

6. David Vickers

On November 28, 1990, David Vickers (now The Honourable Mr. Justice Vickers of the British Columbia Supreme Court) was stabbed in the arm as he attempted to subdue an angry ex-husband in a Vancouver courtroom.

7. Sidney Leithman

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

8. Paul Beaudry

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

9. Rosemary Nash

On July 28, 1993, Rosemary Nash, whose practice was mainly divorce and family law, was walking near her home when she was approached by a man who threw acid in her face.

10. Graeme Keirstead

On September 8, 1995, Graeme Keirstead was attacked on the back of the head 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.

11. Lynn Gilbank

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.

12. Keith Purvin-Good

In September 2000, Keith Purvin-Good, a suburban Kelowna divorce lawyer, was the target of a mail bomb, which exploded in his car.

13. Phil Rankin

In February 2001, an angry crowd gathered outside a New Westminster courtroom and attacked Phil Rankin, moments after he got his client released on bail in a murder case.

14. Liane O'Grady

In November 2001, Roger Mercier was charged with trying to hire a “hit man” to kill Ms. O'Grady, the lawyer prosecuting his case.

Accordingly, it is important that studies be conducted to determine if violence and threats against Canadian lawyers is, or is not, an emerging problem. For example, many lawyers practicing law today encounter abuse and threats from numerous sources as a result of discharging legal responsibilities. Alternatively, other legal practitioners may never face threats in a lifetime of practicing law. For that reason, data are essential to establish the possible reasons or motives behind such attacks, both from a macro organizational and a micro and individual motivational perspective. And lastly, research also is required from another standpoint - that is, obtaining additional perceptions and opinions of a sampling of legal practitioners on such issues as whether they consider violence to be an issue of concern; the availability and suitability of courthouse security, or conversely, the lack thereof; the reasons and motives they believe to be behind violence; media reports regarding lawyers and legal cases, and whether gender bias plays a part in violent actions. And, finally, whether legal practitioners themselves view the structural shifts toward greater business orientation for law practice as being a factor in facilitating more violence of this nature, and also whether, more generally, they approve of this shift, are key issues that must be addressed in an effort to understand this violence against lawyers phenomenon.

Structure of the Thesis

Chapter 1 introduces the reader to the distinction between work-related and workplace violence. The chapter begins with discussions on the nature of work-related

violence and concludes with a short synopsis on types of violence against lawyers. Chapter 2 reports on recent studies and literature regarding work-related violence against the judiciary and legal practitioners, and then reviews myriad theoretical hypotheses underpinning violence against lawyers. It is contended that, at the present time, no single hypothesis adequately explains this phenomenon. The chapter concludes with the proposition that the legal profession has moved away from the long established traditions and canons of professional ethics, thus vacating a professional paradigm and adopting a business approach.

Chapter 3 reviews the methods and procedures employed in this exploratory research project, and Chapter 4 discusses the results of the quantitative method, reviewing both univariate and bivariate analyses. Thereafter, Chapter 5 reviews the qualitative portion of this thesis, namely in-depth interviews with twenty-five legal practitioners from the Lower Mainland of British Columbia. Chapter 6 discusses the limitations of self-report data; the fact that each participant who was interviewed may harbour his or her own biases, and that each opinion is subjective in nature. Lastly, Chapter 7 summarizes problems that affect lawyers in British Columbia and suggests contemplation of future studies of violence and threats against lawyers across Canada.

CHAPTER 1: WORK-RELATED VIOLENCE

Nature of Work-Related Violence

The terms workplace and work-related violence can have varied meanings. In the context of this thesis, “work-related” violence is defined in a manner consonant with that of Wynne et al (1996), who describe work-related violence as:

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 (p. 1) [emphasis added].

Accordingly, there can be numerous differences between what is considered workplace and work-related violence. Workplace violence usually occurs when aggressive disputes take place between employers and employees, or contentious issues arise between personnel. Furthermore, although the construction of “workplace” often conjures images of predetermined physical locations where individuals usually work, it may not take into account “mobile or geographically diverse occupations” where workers are not fixed in one location but travel or move in diverse directions in the course of their occupation (Martino, 2003: 886). Those with jobs that require them to travel while working may experience violence that does not occur in their immediate workplace, yet the violent incidents may still be work-related. Accordingly, lawyers may often practice law in various sites – from their business offices to courthouses or other government institutions, in or about which threatening or violent incidents may occur. For that reason, it is important to distinguish between workplace and work-related violence in relation to

this topic because it is imperative to understand that work-related violence pertaining to lawyers can encompass varied scenarios in numerous locations – that is, in or around courthouses or other judicial buildings, at or near their businesses or residences, on the street, and so forth.

What is also equally important to establish is that any threats, abuse or violence that do occur within the definitional confines of work-related violence, must pertain exclusively to a lawyer discharging his or her legal obligations. As set out in the *Professional Conduct Handbook* (2004), 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). A lawyer who is mugged by a stranger as she/he walks to the courthouse is not the victim of work-related violence.

General Context of Work-Related Risk

There have been numerous studies conducted in the past decade on work-related violence in North America and Europe and results indicate that certain occupations have higher risks for work-related violence. For example, Professor Neil Boyd of Simon Fraser University in Vancouver, British Columbia, examined Workers’ Compensation Board claims relating to “acts of force or violence” between 1982 and 1992 (Boyd, 1995: 493). The results of the study concluded that workers in the health care sector were specifically more prone to work-related violence. For instance, residents suffering from Alzheimer’s or vascular dementia in intermediate and long-term care facilities often strike out at care workers because of frustration and/or confusion. Consequently, health care workers reported approximately 600 claims to the Workers’ Compensation Board in 1992 alone. Overall, the study revealed that 90 percent of all 1992 Workers’ Compensation

Board claims were also received from workers in other occupations such as clerks and cashiers (65 claims); correctional officers (40 claims); police officers (40 claims); private security workers (40 claims); doormen and bouncers (35 claims); bartenders and waitresses (30 claims); bus drivers (30 claims); taxi drivers (25 claims); and teachers' aides (15 claims) (Boyd, 1995: 493). Further, Waddington, Badger and Bull (2005), in a research project on high-risk occupations, identified four occupational groups that were more likely to suffer victimization than other professions. First and foremost, individuals engaged in the "security and protective services" industry, such as police or security officers, were particularly at higher risk for violence (p. 142). Additionally, employees in the caring professions, such as nursing, mental health and social workers, were liable to be at higher risk for violence and threats.

Consequently, the work of Poyner and Warne (1988) provides one of the most useful frameworks for analyzing work-related violence. They define nine interactions as the most likely to explain why some occupations may be at more risk for aggression than others, namely, "giving a service; caring; education; money transactions; delivery/collection; controlling; inspecting; robbery; and vandalism" (as cited in Wynne, et al, 1996: 7). Therefore, using claims from Boyd's (1995) Workers' Compensation Board study, we can correlate these interactions with the Study's high-risk groups as follows:

Table 1: High Risk Occupations/Interactions

| INTERACTION | TYPES OF OCCUPATIONS |
|----------------------------|---|
| Giving a service | Taxi Drivers/Clerks/Cashiers |
| Caring | Healthcare workers |
| Education | Teachers/aides |
| Money Transactions | Taxi drivers/Bartenders/Waitresses Clerks/Cashiers |
| Delivery/Collection | Bus drivers/Taxi drivers |
| Controlling | Correctional Officers/Police/Private Security/Doormen/Bouncers |
| Inspecting | Police Officers/Doormen/Bouncers |
| Robbery | Taxi drivers/retail clerks |
| Vandalism | Bus drivers |

Further, although evidence from available literature confirms that work-related violence may be increasing, it is principally restricted to workers who deal primarily with the public (Wynne, et al, 1996). Thus, taken into the context of this thesis, it would be assumed that legal practitioners, whose primary client foundation is the public to which they provide legal services, might be more vulnerable to aggressive behaviours.

However, there is no universal tracking system in British Columbia for work-related claims. The Workers' Compensation Board only covers certain occupations regarding work-related claims that enable them to accurately maintain an index of violence at work. Unfortunately, the Workers' Compensation Board does not cover many other professions, such as R.C.M.P officers, bank tellers and other personnel who are employed in the financial institutions. Most importantly, only a few claims are considered by victims to warrant either reporting to the police or submitting a claim to the Workers' Compensation Board. Therefore, there are no accurate data available to pinpoint the quantity and severity of violence in work-related activities (Boyd, 1995).

Threat Assessment Approach on Targeted Violence

Lawyers who are victims of violence or threats may be targeted because of their occupation. However, it is difficult to assess a situation of targeted violence before the incident occurs because the research base is deficient in profiling candidates' characteristics and behaviours that may precipitate attacks on targeted victims. For example, earlier studies on targeted violence have examined either criminal offenders or people with mental disorders after the targeted attack, and the decisive factor has been general criminal and/or violence recidivism (Bonta, Law, & Hanson, 1998; Steadman, Mulvey, Monahan, et al., 1998, as cited in Borum, Fein, Vossekuil & Berglund, 1999). Therefore, since targeted violence can happen unexpectedly either in private or public places and can be most capricious to detect, Borum et al (1999) devised a useful threat assessment approach, which focussed on an individual's deportment in order to calculate whether he or she posed some risk to a particular target. Hence, they recalibrated their reasoning from the viewpoint of analyzing a subject's physical and mental characteristics, to concentrating on whether a particular individual has displayed recent behaviour or actions that suggests that he or she is moving on a violent path toward a targeted victim. This approach provides some assurance that perpetrators could be exposed before they actually commit an abusive act towards a target.

Types of Violence Against Lawyers

Violence against lawyers can also take myriad forms. It can range from inappropriate communications, threatening messages or confrontations, to physical assault and murder. Abuse, for instance, can indicate any and all behaviours that "depart from reasonable conduct and involve the misuse of physical or psychological strength".

Threats may include the peril of death, or some form of communiqué representing an aim to harm a person or damage their personal property. Assault, on the other hand, could include any effort to inflict physical damage on an individual or cause harm to his/her property. Additionally, there are specific forms of non-physical violence such as mobbing and bullying (Martino, 2003: 885).

CHAPTER 2: LITERATURE REVIEW

Introduction

This chapter reviews existing theory and research pertaining to work-related violence and in particular, violence and threats against lawyers. Although some research does exist on this subject, no significant published statistics have been compiled in Canada investigating the forces surrounding violent acts against lawyers. To further complicate the void created by the lack of Canadian research data is the fact that a majority of the research and investigations have focussed only on judges and courtroom staff within the United States. Therefore, as will be shown in this chapter, the specific topic of violence, threats and abuse against practicing lawyers, who are in good standing with their respective provincial law societies, has been investigated with little, if any, frequency in Canada.

Moreover, the current research on violence against judges and courtroom personnel suffers from a lack of comparative analyses. For example, most of the studies to date have been conducted in the United States, whose results may or may not involve disparities regarding violence when contrasted to the extent of violence in Canada. Also, the primary rationale underpinning studies on judiciary violence is to determine the prevalence, severity and location of the violence for the sake of monitoring, amending or improving procedures and protocols for courthouse security. In addition, the dynamics of violence against judges may be difficult or otherwise inappropriate to compare with

violence perpetrated solely against lawyers. That is, although some of the tenets of violence may be similar, judiciary violence may be quite different and diverse, thereby leading to erroneous assumptions about violence against lawyers. Take for instance the location of judiciary violence. It can be assumed that a good percentage of incidents occur inside a courtroom (Calhoun, 1998), whereas violent perpetrations against lawyers could vary in their location, as well as the frequency and severity of occurrences.

To make 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, the Canadian Bar and American Bar Associations. As such, there are no statistics readily available to commence analysis of how insidious the problem may be, or to determine whether such violent incidents are on the rise (Brady, 1998).

Recent Studies

There have been only a few notable studies conducted in the United States, ranging from the United States Marshals Service's thirteen-year report to small surveys of judges and lawyers. Studies significant to this thesis are as follows:

- a. From 1980 to 1993, the United States Marshals Service recorded and analyzed 3,096 inappropriate communications and assaults reported against judicial officials (Calhoun, 1998, 2001; Jenkins, 2001);
- b. In 1997, the American Bar Association conducted an informal study of the ABA Section of Family law (Hansen, 1998; Kelson, 2001);
- c. In 1998 the New Mexico administrative office in the United States obtained grant funding for a state-wide review of court security (Greacen & Klein, 2001);
- d. In 1999 the administrative office of the Pennsylvania Courts in the State of Pennsylvania conducted a survey on judicial safety (Weiner, Harris,

Calhoun, Flango, Hardenbergh, Kirschner, O'Reilly, Sobolevitch & Vossekuil, 2000; Harris, Kirschner, Rozek & Weiner, 2001);

- e. In December 2000, the Utah Legal Profession conducted a study of one hundred and sixty-one members of the Davis County Bar Association (Kelson, 2001).

Notwithstanding the clear relevance of the Davis County and American Bar Association studies, the larger studies, such as the review undertaken by the United States Marshals Service, have focused on officials within the federal judiciary which included judges, bailiffs, defence lawyers, prosecutors, court clerks, witnesses, probation officers and social workers, to name a few (Hardenbergh & Weiner, 2001). The intent of these studies was to intensely scrutinize the security parameters in courthouses. Thus, violence in the judicial workplace has resulted in a focus on factors and unforeseen events that could jeopardize the open access to the court system, namely liberty from fear, threat, violence and intimidation (Wax, 1992; Berkman, 1994; Warren, 2001; Geiger, 2001)

The Marshals Service report is by far the most comprehensive survey conducted thus far on violence in this specific area of concern. The Marshals Service became involved in courthouse security after the brutal slaying of Superior Court Judge Harold J. Haley on August 7, 1970. Just three months after Judge Haley's death, Deputy Director Caspar Weinberger, Office of Management and Budget, acutely aware of the greater need for security, approved a policy that allowed the Marshals Service to bolster security in all federal courtrooms where legal hearings are held (Calhoun, 1998). Accordingly, throughout the 1980s, the Marshals Service enhanced security in each federal courthouse in the United States.

The study's quantitative approach dissects details ranging from the nature of the assault to the various kinds of methods used to form and implement the attack.

According to the Marshals Service, federal judicial officials reported 3,096 inappropriate communications and assaults from 1980 to 1993. Also noteworthy is the fact the methods varied – from communications via mail or telephone, to person-to-person contact. Moreover, the targets were also diverse and included not only personal attacks on judges and other court personnel, but assaults on their family members and personal property as well (Calhoun, 1998).

Violence in courthouses can reverberate across the United States. For example, on May 15, 1992 in Grand Forks, North Dakota, a man appearing in family court for failing to pay child support shot and seriously wounded the judge. On the identical day but in a different state – Clayton, Missouri – another man shot and killed his estranged wife and wounded her lawyer while waiting for his divorce. Also on the same day, a woman and her brother-in-law shot at each other in an Alabama courthouse. In fact, as recently as 1999, the Westmoreland County Courthouse in Greensburg, Pennsylvania was evacuated because of a bomb threat, and in March, 2005, a judge, court reporter and sheriff's deputy were killed in a shoot-out in an Atlanta, Georgia courtroom (Hardenbergh & Weiner, 2001; Roig-Franzia and Levs, 2005). These incidents are only a small part in what seems to be an alarming increase in the scope of problems in the United States regarding judicial and court-related security.

Therefore, postulations may arise about courthouse safety and if, in fact, a courthouse can be a dangerous place to conduct business. More to the point, courts can be controversial places, where a single person or quorum can decide upon such things as an individual's fate, family or finances. Thus, it can be concluded that judges occupy a precarious position in rendering often-contentious decisions in a venue that is already fraught with disputation. Notwithstanding a party's plight before the court, most

participants, if not all, come to expect some form of justice. When their idea of justice is not met, some may resort to violence or other means to achieve this goal.

One of the impacts of these various studies is that many districts are now architecturally renovating their courthouse buildings to conform to security standards, forcing officials to take myriad contingencies into consideration when merging the public into such contentious and highly volatile venues. One such building undergoing extensive renovations is the Dirksen Federal Building in Chicago, Illinois. Built in 1964, the building's lobby is being restructured to accommodate security concerns due to incidents in the past several years (Rooney, 1996; Griebel & Phillips, 2001). However, because security issues and violence have only begun to emerge in the last two decades, limited information is available. As suggested by Hardenbergh & Weiner (2001), although much of the information garnered so far is based on personal experiences from federal, state and local sources, it is still highly speculative.

One of the few states in the United States to recognize the need to conduct judicial surveys was the state of Pennsylvania. Pennsylvania court administrators recognized the need for implementing a survey quantifying the various types of threats and acts of violence against judges. The Pennsylvania study not only contained a quantitative analysis but also supplemented its statistics with qualitative data from structured, in-depth interviews with a diverse set of Pennsylvania judges. Overall, 93 percent (or 1,029 judges) responded to the survey (Harris, Kirschner, Rozek & Weiner, 2001).

The New Mexico study, on the other hand, exclusively emphasized its objective on courthouse security. In response to the anxieties of judges and court staff, a Statewide Court Security Team was mobilized to conduct reviews of appellate, general and limited jurisdiction courts (Greacen & Klein, 2001).

In Canada, there have been no public or private studies reported on violence against judicial officials and/or lawyers. Although there have been several assaults and murders of lawyers reported by the media since 1978 (Brown, 2004), no significant studies have emerged with regard to either violence against judges or lawyers, despite the recent resolution passed by the Canadian Province of Ontario Bar Association in December 2003. This resolution pertains to concerns arising from a well-known Toronto, Ontario lawyer who felt forced to resign from a high profile case because of death threats he had received. The Ontario Bar Association, comprised of approximately 15,000 lawyers, drafted the following resolution (Canadian Bar Association, 2003):

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;

And whereas the Ontario Bar Association is committed to the safety of lawyers who are placed in danger in the course of their duties;

Therefore be it resolved that:

The Ontario Bar Association 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.

The outcome of this Resolution is not known at this time, and the Canadian Bar Association has not released any subsequent reports on its progress.

Details and Analysis of the Studies

In order for researchers to conduct studies on violence against the judiciary and judicial officials, understanding the denotation underpinning such occurrences needs to be met. For instance, the term “judicial violence” is a vague term warranting explanation. Any researcher in determining the scope of violence in a particular context needs to put the term into perspective. As such, Weiner and Hardenbergh (2001) defined

judicial violence as “behavior by individuals that intentionally threatens, attempts, or inflicts physical harm on persons at work or on duty in the judiciary” (p. 25), which was an expansion on the National Academy of Science’s definition of workplace violence. Thus, their explanation specifically excludes any violence beyond the scope of judicial duties and also eliminates peripheral behaviours in the judicial workplace that falls under this rubric. Specifically, the studies discussed in this chapter relate only to injuries intentionally inflicted against persons in relation to their judicial and/or legal duties.

(a) Nature of the Threat

For the sake of clarity, the variety of threats must be delineated. In analyzing the 3,096 inappropriate communications and assaults reported to the United States Marshals Services from 1980 to 1993, three distinct ranges of violence were categorized: specious, enhanced and violent (Calhoun, 1998).

Specious

Specious threats are defined as those that have a hint of “truth or plausibility” (Calhoun, 1998: 55). In other words, the Marshals Services classified specious threats as intimidation that was actually made, but there was no attempt by the accuser(s) to inflict injury or death pursuant to the threat (Calhoun, 1998).

Enhanced

Enhanced threats, on the other hand, were classified as those threats for which subsequent behaviour substantiated the threat. In other words, if the accuser(s) made an initial threat to a judge, and then attended the courthouse where that particular judge was presiding, then the U.S. Marshals considered this type of threat as enhanced. Although

the attendance of the accuser(s) at the judge's courtroom may be merely coincidental, the U.S. Marshals investigated the behaviour to determine its legitimacy. As such, the U.S. Marshals did not assume the subsequent behaviour was innocuous until a full investigation was conducted. Therefore, at this stage, the U.S. Marshals considered this threat to be enhanced, but not life threatening (Calhoun, 1998).

Violent

If violence was involved in the threat, then the threat was elevated to violent. Violent threats covered a wide range, from a victim's neighbour's house being firebombed to the assassination of two judges. The U.S. Marshals were extremely liberal in their definition of the term "violent", but nonetheless, the common denominator for this category was that some sort of violence must be intrinsic in the act (Calhoun, 1998).

(b) *Magnitude of the Threats*

In analyzing the 3,096 reports to Marshals Services headquarters, approximately nine out of ten threats were characterized as specious. Table 2 indicates the percentage of specious, enhanced and violent threats (Calhoun, 1998: 56).

Table 2: U.S. Marshall Services – Specious, Enhanced and Violent Threats and Assaults, Fiscal Years 1980 – 1993

| THREAT TYPE | NUMBER | PERCENTAGE |
|--------------------|---------------|-------------------|
| Specious | 2754 | 91.9 |
| Enhanced | 124 | 4.1 |
| Violent | 118 | 3.9 |
| Not assessed* | 100 | 0.1 |
| TOTAL | 3096 | 100.0 |

*Cases not assessed due to insufficient data.

In another study conducted in Pennsylvania in 1999, approximately 93 percent of the judges polled responded to the survey. Harris et al (2001) reported that the categories of incidents which occurred between May 1998 to May 1999 were as follows: 43 percent were some form of inappropriate communication; 23 percent related to explicit, threatening communication; 26 percent involved inappropriate approaches; 12 percent concerned physical assaults; and 52 percent were one or more incidents of various types.

In the New Mexico study, concentration was maintained on courthouse security. A representative sample of courthouses was chosen for site visits to assess security measures. In this regard, a consultant team was assigned to review court security and report on each chosen site. The final report was submitted in April 1999, and one of the subsequent developments flowing from the report was the implementation of approved incident reporting forms. These forms were circulated to all appellate, district, magistrate and metropolitan courts in December 1999; in the succeeding eleven months, forty-six security incidents ranging from personal threats to vandalism and unauthorized entry, were recorded. (Greacen & Klein, 2001).

In 1997, the American Bar Association conducted an informal fax survey of the family law section of the Association. Notwithstanding that only two hundred and fifty-three lawyers responded, the survey revealed that 60 percent had been threatened by an opposing party in a case, and 17 percent reported having been threatened by their own client. Moreover, 12 percent stated they were victims of violent acts perpetrated by either a client or an opposing party at least once (Kelson, 2001). In fact, as confirmed by Pamela Horn (1994) of the Kansas Bar Association,

The most volatile area appears to be the domestic forum. The types of conflicts engendered by divorces, child custody disputes, termination of parental rights and other highly charged emotional circumstances create a particularly fertile environment for potential violence to occur (p. 6).

In December 2000, the Utah Legal Profession conducted a survey of one hundred and sixty-one members of the Davis County Bar Association. In total, 130 members, representing 81 percent of the Davis County Bar, responded to the survey. Kelson (2001) reports that 13 percent of the respondents advised they had been physically assaulted at least once. Fifty-nine percent reported having been threatened at least once by a client, opposing party, or other interested persons in a legal action. Forty-one percent of those threatened considered it serious enough to report the incident to police authorities. However, Kelson contends that although these statistics may not automatically represent the entire state of Utah, or correlate to incidents in other bar associations in that state, they do indicate that violence against Utah lawyers is not such an uncommon occurrence as originally believed.

(c) Method of Delivery

According to Calhoun (1998), the method of delivering a threat is the strongest connection to whether a threat is classified as specious, enhanced or violent. In much simpler terms, Calhoun defined the method of delivery as the “threatener’s signature” (p. 66). It can determine an assailant’s character, motive, intent or purpose. As shown in Table 3, the numerous means of conveying inappropriate communication are compared to the level of threats. Evidence shows that the most common method of delivery is by written communication, distantly followed by telephone contact. Also noteworthy is the fact that individuals who may have prior knowledge of an assailant’s plans to threaten or harm members of the judiciary may forewarn officials of a possible attack, thus compelling authorities to implement extra security and preventive measures in certain instances.

Table 3: Cross-Tabulation of Methods and Levels of Threats

| | METHOD OF DELIVERY | | | | | | | | | | Total | |
|-----------------------------|--------------------|---------------|------------|--------------|------------|--------------|---------------------|--------------|------------|--------------|-------------|-------------|
| | Written | | Telephone | | Informant | | Suspicious Activity | | Verbal | | # | % |
| THREAT TYPE | # | % | # | % | # | % | # | % | # | % | # | % |
| Specious | 1267 | 96.6 | 646 | 96.7 | 605 | 98.4 | 95 | 41.9 | 141 | 80.6 | 2754 | 91.9 |
| Enhanced | 34 | 2.6 | 16 | 2.4 | 5 | 0.8 | 40 | 17.6 | 29 | 16.6 | 124 | 4.1 |
| Violent | 10 | 0.8 | 6 | 0.9 | 5 | 0.8 | 92 | 40.5 | 5 | 2.9 | 118 | 3.9 |
| Total | 1311 | 100.00 | 668 | 100.0 | 615 | 100.0 | 227 | 100.0 | 175 | 100.1 | 2996 | 99.9 |
| Percentage of Total Threats | 43.8% | | 22.3% | | 20.5% | | 7.6% | | 5.8% | | 100.0% | |

(d) Targets of Attack

As J. Reid Meloy (2001) explains, individuals targeted for violence can be categorized into either “public” or “private”. For example, public targets are individuals whose lives and livelihood are subject to public scrutiny, criticism and/or harassment,

such as politicians, movie stars, and so on. These individuals tend to attract a predatory perpetrator who would most likely use a firearm as a weapon. In contrast, private targets appear to be most likely affected by “emotionally reactive subjects who will immediately shove, push, punch, slap, choke, fondle or hair pull the victim without the use of a weapon, usually in response to a perceived rejection or humiliation” (Meloy, 2001: 1211). Thus, most private targets within the judicial realm are judges and lawyers, and violence can originate from numerous sources, such as clients, opposing or interested parties, or victims’ families or friends, and could occur at any time or location (Kelson, 2001). In the Davis County Bar Association study in Utah, lawyers reported 12 incidents in which their own clients victimized them, and another 69 events where the opposing party in each case was involved. Another interesting revelation as to the suspected controversial nature of some legal cases is the fact that three assaults and one threat were perpetrated by opposing counsel (Kelson, 2001). Moreover, in the Pennsylvania study, one judge commented that he chose not to notify law enforcement officials of a serious threat because it was made by an lawyer who inappropriately approached him (Harris, Kirschner, Rozek & Weiner, 2001).

In addition, there may be certain lawyers who are more at risk than others. For example, in Canada, it is possible to conceive that barristers may be more prone to violence than solicitors since they attend court on a frequent basis and conduct litigious events more than solicitors. However, Kelson (2001) notes that according to the Davis County Bar study in Utah, violence also can occur in such practice areas as real estate, medical malpractice, personal injury, collections and bankruptcy. According to Horn (1994), the most volatile area appears to be the domestic forum, which includes conflicts such as divorces, child custody disputes, spousal and child maintenance, and issues of

parental rights. In fact, as Toronto, Ontario criminal lawyer, John Rosen explains, threats to lawyers involving violence frequently arise in family or civil cases, and violence may stem from “frustration with the system”. He adds that “clients take it out on lawyers, the most visible part of the system - they are in the front line” (as cited in Brady, 1998: 2). Wesley Pue, a law professor at the University of British Columbia also believes the practice of family law is extremely vulnerable because individuals may “go over the edge psychologically”(as cited in Brady, 1998: 2). In his experience, Pue quite candidly compares the practice of family law as being more dangerous than negotiating controversial issues with a well-run organized criminal group. In this regard, a source from the Law Society of British Columbia stated that when dealing with complaints from the public against British Columbia lawyers, the most common types of complaints were from people:

- a. who had the most personally invested;
 - b. who were involved in the family law context; and
 - c. who were contesting anything involving money.
- (Brown, 2004)

Additionally, Nancy Slonim, a spokeswoman for the American Bar Association, confirms that although there definitely are incidents of violence against the legal profession, she has no facts upon which to base assumptions that this may become a possible trend. However, she does concur with the supposition that the most prevalent area seems to involve domestic disputes (Brady, 1998). She cites an example of extreme violence in 1993, where a former client of the San Francisco law firm of Pettit and Martin shot and killed eight people and injured six others before killing himself. Three of the eight individuals killed were lawyers. Also, in the same year, a lawyer was shot and

killed in a Los Angeles law library and two Texas lawyers were murdered in a local courthouse (Brady, 1998).

The Marshals Services study revealed that the primary targets in the courthouse realm are district court judges, by far exceeding the incidents against prosecutors, circuit court judges, jurors, court clerks, probation officers, and so forth. As indicated in Table 4, below, approximately 2,028 district court judges, or 65.5 percent, reported some form of threats whereas only 15 percent of prosecutors received some type of offensive action. (Calhoun, 1998: 92)

**Table 4: U.S. Marshals Services –
Reported Threats and Assaults by Victim Title**

| VICTIM TITLE | REPORTED THREATS | PERCENTAGE |
|----------------------|-------------------------|-------------------|
| District court judge | 2028 | 65.5 |
| Prosecutor | 464 | 15.0 |
| Circuit court judge | 203 | 6.6 |
| Other | 401 | 13.0 |

Theoretical Assumptions: Individual Motivations

There certainly may be innumerable motives underpinning violence and abuse against lawyers. However, the difficulty arises when attempting to determine the motives behind such violent assaults and the logic and rationale (if any) underpinning it. Weiner & Hardenbergh (2001) posit that, at the present time, no methodical hypothesis, based on numerous perceptions, analytical levels and methods, has developed that sufficiently explains the broad range of threats, approaches and attacks on lawyers and judges in their official capacities.

One hypothesis may stem from individuals becoming increasingly discontented with the Canadian justice system and the administration of justice procedures. A phenomenon of, “blaming the messenger” may originate from society’s perceptions of lawyers being at the forefront of controversial legal issues (Albrecht, 1997). For example, people seek compensation for perceived wrongs, while very few people want to be held accountable for the consequences of their actions. In many instances, individuals repudiate both sides of an argument and concede only what is in their own self-interest. Parties to a legal action may lash out at their lawyers when there is no other alternative, and lawyers are certainly visible as targets for rage and frustration.

Moreover, the media may harbour a propensity to vilify certain lawyers who defend high profile criminal cases, which can heighten the public’s perception that lawyers have dubious reputations (Sorensen, 2003; Mulgrew, 2003). For instance, the Canadian Bar Association has an initiative currently underway to enhance lawyers’ images (Canadian Bar Association, LCI, 2004). In this vein, Albrecht (1997) suggests this type of troubleshooting attempts to dispel misconceptions about lawyers and improve the legal bar’s image and reputation. In other words, the belief in legal stereotypes such as lawyers lacking morality, ethics or a honourable standing in the community, may cause litigants involved in, or associated with, civil or criminal actions to relocate their anger and dismay regarding the entire criminal justice system toward legal counsel involved in the case. Therefore, the litigant, who senses (s)he is a victim in the judicial process, may “blame the messenger”, who would most likely be a lawyer having some association with the legal case (Albrecht, 1997).

Another theory, the Relational Model of Justice, as proposed by Lind (1997), questions what motivates individuals to view judicial treatment as unfair. Although

justice may be an important concept in social, political, legal and general philosophy, it is extremely subjective (Nagel, 1983). Thus, Lind suggests the likelihood that a person may feel that (s)he has been denied dignified treatment or his or her views and needs have been ignored, or the person feels that decisions and decision makers have not been neutral. Lind further explains that once a person has suffered a substantial injustice, he or she will engage in a search for some forum or action that will restore justice.

Although taken in the context of an employer/employee relationship, this theory can correlate to the Canadian justice system. For instance, if individuals consider their relationship with the judicial system is fundamentally positive, they will adopt a positive attitude and response to that system (Lind, 1997). Then again, if individuals feel exploited or rejected by the judicial process, or they view their treatment as unfair, they will perceive their relationship with that system as negative. The Relational Model of Justice espouses that people tend to use the nuances of interpersonal progression to reach certain justice judgments. For example, individuals will consider such things as “whether they feel that their views are listened to and considered, and whether they feel that decisions they care about are being made on a factual, rather than a biased, basis” (Lind, 1997: 162).

In sum, 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 from the primary basic judgment on the modelling of daily social relations (Lind, 1997). Thus, the consequences of such feelings may underpin whether individuals adhere to standard norms of procedure or deviate and disobey common authorities and practices.

Another assumption is the Revenge Theory, which postulates 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, Tripp & Kramer, 1997).

The Revenge Theory also suggests 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” (Bies et al, 1997: 24). For example, with regard to one serious attack on a British Columbia lawyer, Graeme Keirstead, the assailant Mr. Lehoux became fixated on the injustice inflicted on him by the justice system – believing that the legal system was corrupt, and legal practitioners and the court system were mistreating him. Thus, his revenge was a vicious attack upon a lawyer whom he had never met. In fact, Mr. Lehoux continues to harbour ill-conceived notions about the entire justice system and all those individuals involved with it (*R. v. Lehoux*). Consequently, Bies et al further explain 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. In essence, a person seeking revenge may be trying to restore balance by levelling the playing field.

With regard to contextual factors, 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) explain, “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 the Canadian court system. In fact, the

court system is the epitome of a hierarchy and can be the foundation for intimidation and power differentials. Most importantly, the role that the justice 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 make clear, "objective differences in power, status and influence can translate in potent differences in the parties' perceived control over each other and perceptions of dependence, vulnerability and threat" (p. 27).

In sum, however, revenge may not always be illogical. In fact, according to Bies et al (1997), revenge has its own rationality. To this end, although individuals may seek revenge to attain a designated conclusion, it is also apparent that revenge is entrenched in judicial provisos. That is, avengers may, while seeking revenge, believe in moral justification and fervently consider their actions constitute the definitive conclusion. For instance, in the case of Graham Keirstead, the assailant Mr. Lehoux has not attended any institutional programs in the correctional system designed to deal with violent offenders due to the fact that he simply does not perceive that he has a problem in that regard. In fact, Mr. Lehoux firmly believes that he is the *victim* in the circumstances, not Graeme Keirstead (*R. v. Lehoux*) [emphasis added].

Bies et al (1997) mention the concept of forgiveness as a revenge response. Not often viewed as a means of "getting even", it may be constructive because it restores control to the victim. Bies et al determine that further research is required to unravel the complex psychological and social factors that lead a person to forgive and forget.

Finally, one veteran Calgary lawyer, Alan D. Hunter, opined that the Canadian *Charter of Rights and Freedoms* has made it extremely difficult for the general public to understand the law today. Accordingly, he has called for increased law-related programs

being added not only in secondary schools, but elementary schools as well (Sorensen, 2003). In fact, Mr. Hunter's declarations are substantiated by a recent poll conducted by Environics Research Group in December, 2002 that revealed 35 percent of Canadians cannot name anything prohibited by the *Charter*; only 32 percent can correctly identify that religious discrimination is prohibited by the *Charter*; and 22 percent of those individuals polled incorrectly said that discrimination on the basis of sexual orientation is expressly prohibited by the wording of the *Charter* (Canadian Lawyer, 2003).

Structural Explanatory Shifts: The Organization Itself

An alternative set of approaches to explaining violence against lawyers involves a focus on the organizational dynamics of the legal profession. It may be asserted that there is something peculiar to the legal profession that leaves members of this work group prone to violent victimization. Looking at explanatory conjectures from another perspective is the proposition that the legal profession has moved away from the long established traditions and canons of professional ethics, thus vacating a professional paradigm and adopting a business approach (Pearce, 1995). Professor Pearce (1995) of Fordham University relies on Thomas Kuhn's theory of paradigms, which explains how, "*except in rare instances where a paradigm crisis occurs*, socially constructed paradigms shape a community's work and restrain inconsistent views" (p. 1233) [emphasis added]. However, Pearce identifies this shift of professionalism as a time for hope rather than grounds for despair. In this regard, he believes that although an anomaly has been created from the disarticulation of the business/profession dichotomy and existing public perceptions of legal practitioners, the new business paradigm will instead force legal practitioners to adopt a "middle range" approach to resolve the anomaly (p.

1276). That is, the new paradigm will inspire the legal community to adopt new and better methods for serving clients, intensify the administration of justice, and endorse an obligation to the common good. In other words, instead of lawyers lamenting the decline of professionalism, lawyers will embrace the business approach and work together in delivering enhanced legal services and promoting justice.

Some legal scholars claim that the legal profession is in crisis because this paradigm shift has changed the way society perceives lawyers (Rehnquist, 1987; Peltz, 1989; Brown, 1990; Linowitz, 1994; Re, 1994; Burger, 1995). Canadian scholars also espouse similar views. For instance, the president of the Canadian Bar Association in a speech to the American College of Trial Lawyers in 1990 spoke nostalgically of the days when a lawyer was more than just a “human punch clock, churning out billable time units” (as cited in Linowitz, 1994: 19). He recalls the days when lawyers were considered trusted advisers and advocates who were more often than not also family friends, and he regrets that those days are probably forever gone.

Peter Brown (1990) also questions the ethics and intentions of today’s legal profession. As former president of the Federal Bar Council, he argues that the once honourable profession is plummeting into a haze of corruption, greed, treachery and sloth. He further explains that lawyers now tend to treat their profession as a trade, plying their goods and services as commonly as a commercial exchange, openly and notoriously for profit, and the losers in such a situation are the public who suffer and continue to endure, poor and insufficient legal services. He suggests that the onus to enhance the status of the profession should be on legal practitioners, and that one solution to the problem of dimming professionalism is a change in the attitudes and perspectives of those working in the legal profession. That is, lawyers must reflect on the nature and purpose of practicing

law and reach a common understanding that will bring the honourable profession back into the revered status that it previously held. The unfortunate lapse into disrepute may have created heightened lawyer abuse and threats. According to law professor Stephen Gillers, there is a dramatic increase in actions against lawyers in the past 12 years. In fact, he states “lawyers, once untouchable, are now among the most vulnerable of all professions” (as cited in Brown, 1990: 17).

Ascribing lawyers two of the seven deadly sins is a serious accusation, but Brown (1990) is convinced there are a significant number of lawyers to whom the making of money is the key, if not exclusive, reason to practice law. In fact, John J. Yanas, past president of the New York State Bar Association stated, “greed and avarice seem to permeate every facet of life in this country and the practice of law has not proven to be immune” (as cited in Burger, 1995: 949). As a result of deteriorating ethics in the legal profession, vital rudiments of trust and confidence between a lawyer and his/her client are lost. Thus, the essential ingredients that bound clients to their lawyers have been eroded, which can lead to discontent and irrelevance on both sides. In essence, the client has lost faith in the honour of the profession due to its members’ quest for the almighty dollar, which dollar, of course, must come from the client’s pocket.

Also substantiating the view that there has been a broad decline in professionalism in the past 20 to 25 years is the former Chief Justice of the United States, Warren E. Burger. Mr. Burger (1995) maintains that the past standard of conduct of the legal profession was far above the benchmark now set for legal tradespersons engaged in what currently substitutes for the business of law. As a result, in the last quarter century, the profession of law has slowly been reduced, willingly and ably, to the plying of a trade. His idea is that the legal profession must adhere to standards that are well above the

minimum directives of the law. This reduction in standards has, according to Burger, “taken on epidemic proportions”, consequently coining this period the “Greed Era” (p. 949). Burger places much of the blame on the organized bar associations’ failure to uphold the ethical standards expected of their members which has resulted in a serious decline in lawyers’ reputations. As a result, due to the marked increase in lawyer misconduct since the early 1970s, Burger opines that the standing of the legal profession is at its “lowest ebb in a century and *perhaps at its lowest in history*” (p. 950) [emphasis added]. But although Linowitz (1994) questions why discriminate against lawyers for the loss of ethical fibre when it seems that ethical decline is widespread among society, at the same time he also argues that legal practitioners are deemed to be the guardians of society’s legal and ethical sense, and the moral foundation upon which society rests.

One of the chief reasons underpinning the slide of legal professionalism is the practice of legal advertising (Peltz, 1989; Linowitz, 1994; Re, 1994; Burger, 1995). The words “huckster” and “shyster” are currently synonymous with commercial advertising by lawyers. In the case, *People v. MacCabe*, the court in the late nineteenth century held that “the ethics of the legal profession forbid that an attorney should advertise his talents or his skill, as a shopkeeper advertises his wares” (as cited in Burger, 1995: 955). For many authoritative scholars of the legal profession, legal advertising has become the blight that caused the decline of professionalism and the increasing dissatisfaction with legal practitioners. Re (1994) believes that much of the perceived commercialism of the legal profession can be accredited to lawyers now being able to advertise their skills, specialties, fees and talents in any advertising venue they choose. With the advent of the Internet, lawyers “hawking” their wares have become prevalent. Re does not dispute the public’s need to know about the availability of legal services, but does consider that the

risks of advertising outweigh the public good. In other words, certain types of advertising generate hazardous practices that may misinform or mislead the public. For example, persons who are not familiar with the legal system may pay for certain results as publicized by lawyers, and when a conclusion is inconsistent with prior assurances, confidence in lawyers' abilities and the judicial system is eroded. Therefore, Re deems that with the availability and legality of legal advertising, there is more potential for deception and confusion within the legal realm. Moreover, Burger (1995) questions whether the conduct of legal advertising is compatible with the ethical standards upholding the legal profession. Therefore, all these factors tarnish the legal profession's reputation in swarms of public doubt, ridicule and mistrust. As Roscoe Pound so pithily pronounced, "if lawyers are to be an educational and professional elite, they should not stoop to common commercialization" (as cited in Burger, 1995: 954).

Many scholars blame the law associations for failing to set and maintain high ethical standards for the legal profession, which, in their opinion, has caused much of the decline in professionalism among legal practitioners and the corresponding decline in public esteem (Linowitz, 1994; Re, 1994; Burger, 1995). In fact, although Section 10 of the Law Society of British Columbia Benchers Policies states that "the public has confidence in the legal profession", and "the public... has confidence that lawyers are honest, ethical and competent", a 1999 Angus Reid survey commissioned by the Canadian Bar Association identified the number-one concern for Canadian legal practitioners is the public's perception of lawyers (Canadian Bar Association, LCI, 2004). Thus, in response to its members' concerns, the Canadian Bar Association has recently initiated a program entitled "Lawyers Care Initiative" ("LCI"). The LCI's mandate is designed to:

...regain public confidence in the profession. The challenge for the organized Bar is to improve both the way lawyers are perceived and the way in which the lawyer-client relationship operates (Canadian Bar Association, LCI: 3).

According to the LCI, public misconception of legal practitioners has been prevalent for many years, which can present myriad problems for stakeholders on how to improve erroneous beliefs. Accordingly, the LCI has launched a program aimed at improving lawyers' images. For example, a series of poster advertisements have been posted in many newspapers, news gazettes and bus shelters across Canada with captivating slogans such as "Canadians have Rights. Lawyers Protect Them" (Canadian Bar Association, LCI, 2004: 3). Further, the LCI intends to invoke a sustained promotion through newspapers, magazines, television, radio, Internet and other advantageous public sites.

Another problem the LCI must combat is the apparent lack of public knowledge on what exactly is a lawyer's role in the community. In this regard, the LCI has implemented diverse strategies to educate the public on a lawyer's role by means of a website for public access containing data on such issues as legal education, a client bill of rights, sample retainer fee and an explanation of lawyers' fees. They have also commenced a campaign to augment the level of legal knowledge in high schools and instigated public speaking engagements and seminars on important topics relating to aspects of everyday life such as wills and estate planning, family law, real estate transactions and so forth (Canadian Bar Association, LCI, 2004).

Of vital importance is also the fact that preconceived public perceptions of lawyers, and in particular, defence lawyers, are derived from media sources. Consequently, the media can play an important role in influencing how the public perceives the legal

profession (Re, 1994; Brown, 2004). For instance, both the Law Society of British Columbia and the Canadian Bar Association and its LCI program have strategic plans that recognize and assist the media in providing invaluable information about the legal profession to divert unwarranted and misguided reports. (Law Society of British Columbia, Bencher Policies, 2004; Canadian Bar Association, LCI, 2004). For instance, the LCI proposes that books and materials should be made available to reporters and editors to which they can refer when preparing and editing stories involving legal cases. As well, the Canadian Bar Association Directory and media guide are now available online as a resource base for journalists seeking additional information on legal matters. In response, it is vital that lawyers also benefit from the media. Therefore, bar leader workshops are being implemented to bestow lawyers with the necessary tools and insights for dealing with the media. As a result, such workshops can provide information on both the media's and lawyer's roles and each can benefit from the other (Canadian Bar Association, LCI, 2004).

Another contentious issue that may be responsible for the decline of professionalism among lawyers is their practice of billing clients (Rehnquist, 1987; Kovachevich & Waksler, 1991; Re, 1994). In his Dedicatory Address in 1987, Chief Justice William Rehnquist stated that:

The practice of law has always been a subtle blend between a "calling" such as the ministry, where compensation is all but disregarded, and the selling of a product, where compensation is all important. The move over the past twenty-five years has been to increase the emphasis on compensation – to make the practice of law more like a business (p. 157).

In fact, 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 can lead to moral difficulties and ethical breaches. That is, if a young lawyer is expected to bill an enormous number of hours per year, there will likely be temptations to exaggerate billable hours. Ultimately, the person who suffers the outcome of embellished billing is the client. Kovachevich & Waksler (1991) also 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. It is not unusual for the legal profession to be viewed as a "mean and mercenary calling", marked by greedy lawyers whose primary motivation is money. In the case of *Baruch v. Giblin*, an American case in which a lawyer's fees were being disputed, the court announced that:

...the attorney's fee is, therefore, a very important factor in the administration of justice, and if it is not determined with proper relation to that fact, it results in a species of social malpractice that undermines the confidence of the public in the bench and bar...(as cited in Kovachevich & Waksler, 1991, at p. 425).

There are few other matters that can irritate a customer or client than being overcharged for a service. 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.

Conclusion and Implications of the Literature Review

This chapter has provided an overview of literature pertaining to violence against judicial officials and lawyers. As shown, the studies to date have been conducted in the

United States, and have primarily focussed on violence and threats against judicial officials. Therefore, the requirement for research focussing exclusively on violence and threats against Canadian lawyers was firmly established. Moreover, as a result, it has underscored a dearth of research data specifically related to violence against Canadian lawyers, and has left many issues and questions unanswered. Although the few studies on violence against United States lawyers have provided a foundation on which to mount exploratory research in Canada, many issues surrounding this enigma are relatively unknown. Therefore, research needs to be conducted to determine the quantity, severity and location of violent acts against lawyers who were attacked in the course of their legal duties, and to ascertain whether there are plausible risk factors associated with this particular profession.

CHAPTER 3: METHODS AND PROCEDURES

Introduction

Two techniques were employed in this exploratory research project - a quantitative method whereby a purposive sampling of lawyers was utilized to collect, code and analyze data on such variables as the type, amount, and location of violence against legal practitioners, and a qualitative approach, which balanced the research in not only proffering lawyers' personal insights and indeed, another perspective, into the criminal event, but also combined participants' views with regard to the issue of violence against lawyers, which contributed an important "voice" to this project. To be exact, the researcher canvassed 5,539 practicing members of the Law Society of British Columbia and asked them to complete an Internet Survey (Appendix 1). The reason for canvassing such a large sample population was the expectation that only a limited percentage of the recipients would respond, which might ultimately provide inadequate data for analysis. However, at the completion of this study, 1,200 lawyers responded to the Internet Survey. Unfortunately, forty-eight responses were not coded because of insufficient data.

Additionally, this statistical data was supplemented with twenty-five face-to-face and/or telephone interviews of a Disproportional Stratified Sample of practicing British Columbia 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 subjective opinions and/or

personal experiences that perhaps would not surface if the Internet Survey was the only source of information on this topic.

By way of background, The Law Society of British Columbia is the self-governing regulatory body for lawyers in British Columbia, and its principal responsibility is to protect the public interest in the administration of justice pursuant to the provincial *Legal Profession Act*. As of September 30, 2004, membership in the Law Society is set out in Table 5 as follows (Law Society of British Columbia, Statistics):

Table 5: Membership in the Law Society of British Columbia (September 30, 2004)

| | MALE | FEMALE | TOTAL | PERCENTAGE OF PROFESSION |
|-------------------------------|-------------------|------------------|-------------------|---------------------------------|
| Practising Members | 6,410 | 2,867 | 9,277 | 85.6 |
| Non-practising Members | 623 | 704 | 1,327 | 12.3 |
| Retired Members | <u>221</u> | <u>11</u> | <u>232</u> | <u>2.1</u> |
| Total Membership | 7,254 | 3,582 | 10,836 | 100.00 |

Accordingly, the lawyers canvassed and interviewed for this research project were all members of the Law Society of British Columbia as of September 30, 2004.

Quantitative Approach

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

The Study Settings

The solicited lawyers had their business practices located in the Lower Mainland of British Columbia. Lawyers were selected who practiced in Vancouver and the following surrounding suburbs:

West Vancouver, North Vancouver, Vancouver, Burnaby, New Westminster, Richmond, Coquitlam, Port Coquitlam, Surrey, Delta, Ladner, Maple Ridge, Langley, White Rock, Mission, Abbotsford, and Chilliwack.

These regions encompass almost all of the Lower Mainland of British Columbia.

Sample Selection

The lawyers were randomly sampled from the “Directory of Lawyers 2003, Volume 15”, and its online subscription service, a legal directory routinely updated by the Canadian Bar Association – British Columbia Branch. These are optimal choices for sample selection as lawyers who are practicing members of the Law Society of British Columbia usually publish their names in the Directory. The lawyers were selected from the section of the Directory entitled “B.C. Lawyers and Law Offices”, which is an alphabetical listing of all lawyers and law firms in British Columbia, including those lawyers in private practice, those working as Crown Counsel, and in-house corporate lawyers. Under this section, each lawyer or law firm is listed alphabetically with all or some of the following information enumerated below each listing - business address, telephone and fax numbers, email address and/or website.

Lawyers practicing law in the specific aforementioned regions in the Lower Mainland of British Columbia were selected from the Lawyer’s Directory and contacted either by e-mail or mail to request they complete the Internet Survey.

The Instruments

There were five instruments used in this project:

1. Internet Survey (Appendix I);
2. Email introductory letter (Appendix II);
3. Mailed introductory letter (Appendix III);
4. Re-canvassing email letter (Appendix IV);

5. Lawyers' Consent Form (Appendix V).

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: <http://www.surveymonkey.com/violenceagainstlawyers>. The 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, not discourage them at the outset by its form. The Survey consisted of ten closed-ended dichotomous and categorical-response questions with open-ended portions embedded in Questions Nos. Three and Five. It was intentionally brief and concise as an incentive to busy and harried lawyers, many of whom may not have the time or inclination to complete a more detailed questionnaire.

Therefore, the researcher's objective was two-fold: to design an instrument in such a way that respondents would only need two or three minutes to complete it, and at the same time, use appropriate language so precise and varied data would be collected.

The Survey included four independent variables, namely,

- ◆ Gender
- ◆ Age
- ◆ Type of legal practice
- ◆ Years of practicing law

and six dependent variables including,

- ◆ Type of violence and/or threats received in their legal career
- ◆ Number of threats received in their legal career
- ◆ Location of violence and/or threats
- ◆ Correlation between violent acts
- ◆ Reported to police, and
- ◆ Change in business conduct.

Question No. Two's categorical response format identified age. This was used to reflect a lawyer's rise in legal status, based on the assumption that the majority of lawyers in British Columbia graduate from law school in their late twenties. For example, a junior lawyer just called to the Bar would probably be under 30 years old whereas a senior partner would most likely be 41 years and older. Although these categories may not apply to all lawyers, it most likely applies to the majority of legal practitioners.

Question No. Three sets out thirteen categories of legal practice, with an open-ended response option available to respondents to capture other legal practice areas not included. In the end, the final count of categories for areas of practice was forty-six.

Question No. Four's categories regarding years of practice were an indicator of a lawyer's seniority and experience. That is, an individual just called to the Bar, practicing less than one year, would have limited experience in practicing law as opposed to a senior practitioner practicing law for more than thirty-one years.

Question No. Five's six categories determined the type of violence and/or threats experienced in a lawyer's legal career. Specifically, these groupings 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 and/or threats were as inclusive as possible in a short survey and attempted to capture all degrees of violence and/or threats likely to have been experienced.

Question No. Six's interval variable lists the range of number of threats experienced in a legal career, from "none" to "more than four". This category was mandatory in determining not only the quantity of violence and/or threats, but also whether lawyers were being targeted on more than one occasion.

Question No. Seven 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.

Question No. Eight was incorporated to detect if there was a correlation between the perpetrators of two types of threats, namely whether lawyers who had received either verbal and/or written threats, and also received some type of physical abuse, knew if the same perpetrator was behind both types of attacks.

Question No. Nine dealt with the issue of whether recipients of violence reported the threats or assaults to the police and to ascertain the extent to which lawyers were willing to engage police action to respond to their victimization.

Lastly, Question No. Ten asked respondents if they had changed their business conduct in order to protect themselves against any future threatening incidents. The categories were divided into “Not at all”, “Somewhat” or “A Great Deal”. Again, this question was modelled after the Pennsylvania study (Harris, Kirschner, Rozek and Weiner, 2001).

Next, an introductory letter was sent to all respondents. The letter was sent by one of two methods, namely via e-mail or Canadian postal service (see Appendices II and III). It 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. It contained an introductory paragraph setting out the topic and elaborating on the importance of why lawyers should consider completing the Survey. That is, the researcher informed the respondents that the Ontario Bar Association passed a Resolution in December, 2003 requesting all levels of government and policing services to develop

policies and protocols to protect all lawyers, their families, associates and staff from harm or threat of harm. Consequently, the introductory letter also informed lawyers of the Ontario Bar Association website that contained additional information.

However, a serious potential problem faced by the researcher was the fact that only those lawyers who had an interest in the topic (i.e. those who had actually experienced threats and/or violence) would respond to the Survey, thus generating data that would be severely skewed. Consequently, the researcher also emphasized the necessity that all lawyers, especially those who had not encountered violence, complete the Internet Survey so that all experiences could be recorded and analyzed. Also emphasized was the brief and concise nature of the Survey, and it was noted that it would only take two or three minutes to complete. Lastly, and most importantly, it was underscored that the researcher would not be seeking information that was sensitive or confidential.

In the end, another email was sent to all recipients of the initial email thanking all those respondents who had completed the survey and reminding those lawyers who had not done so, to kindly complete the survey (See Appendix IV). This recanvassing e-mail was sent out after the researcher had received over 1,000 responses to the Survey.

Procedures

Following approval from the Ethics Committee of Simon Fraser University, the introductory letter was sent to lawyers. This was accomplished in two ways. First of all, as described above, an e-mail letter was sent to all lawyers practicing in the distinct regions in the Lower Mainland of British Columbia and who had their email addresses listed in the 2003 Lawyers' Directory, Volume 15. The e-mail introductory letter contained a direct hyperlink to the Online Survey 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 consulted the online version of the Directory to obtain up-to-date email addresses, and the email was then re-sent (on the condition the lawyer’s new legal practice remained in the specified areas of the Lower Mainland).

The other method for conveying the introductory letter was through the Canadian Postal Service, whereby lawyers were requested to manually access the website to complete the survey. This method was used in cases where legal practitioners did not list their email addresses in either version of the Lawyers’ Directory.

Furthermore, there were a few instances where lawyers requested that the researcher forward them a hard copy of the Survey. As a result, a number of completed Surveys were returned by mail.

Ultimately, when more than 1,000 responses were received, another email letter was sent to all recipients of the initial email reminding them to complete the Survey.

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 research project, approximately 125 respondents left their names and accordingly, a Disproportional Stratified Sample of

respondents was utilized. In this regard, the volunteers were separated into four categories:

1. Male Respondents who had never received any threats or violence;
2. Male Respondents who had received some form of threats or violence;
3. Female Respondents who had never received any threats or violence;
4. Female Respondents who had received some form of threats or violence.

The researcher then randomly selected twenty respondents – five respondents from each category – who were then contacted for interviews. However, a number of respondents refused and/or neglected to return calls or arrange interviews, so a further sampling was taken from the appropriate category. In the end, twenty interviews were finalized. Most fortunately, since the four categories incorporated groups of legal practitioners who practiced in diverse areas of law and in various locations, the sample size covered breadth of demographic and other variables of interest.

The other five interviews used in this research project were conducted in a February/March 2004 Pilot Project of male lawyers, some of whom were victims of violence.

Description of Interviewees

The following Table 6 sets out each lawyer's "code" and includes the date of the interview, gender, area of law that each lawyer practices, location of their practice and whether they received any violence.

Table 6: Descriptions and Codes for Lawyers

| NAME | DATE OF INTERVIEW | AREA OF LAW | LOCATION | VIOLENCE/ THREATS |
|-------------------|-------------------|------------------------------------|-----------------|-------------------|
| Male Lawyer "A" | February 20/04 | Criminal Defence | Vancouver | Yes |
| Male Lawyer "B" | February 24/04 | Federal Prosecutor | Vancouver | Yes |
| Male Lawyer "C" | February 24, 2004 | Administrative | Vancouver | Yes |
| Male Lawyer "D" | March 1, 2004 | Employment | Vancouver | No |
| Male Lawyer "E" | March 8, 2004 | "Mixed-Bag" barrister | Vancouver | No |
| Male Lawyer "F" | November 3, 2004 | "Mixed-Bag" barrister | Maple Ridge | Yes |
| Female Lawyer "G" | November 4, 2004 | Family | East Vancouver | No |
| Male Lawyer "H" | November 4, 2004 | Corporate Litigation and Appeals | Vancouver | Yes |
| Female Lawyer "I" | November 5, 2004 | Family | East Vancouver | Yes |
| Male Lawyer "J" | November 5, 2004 | Provincial Prosecutor | Vancouver | Yes |
| Female Lawyer "K" | November 9, 2004 | Provincial Prosecutor | New Westminster | Yes |
| Male Lawyer "L" | November 10, 2004 | Insolvency | Vancouver | Yes |
| Male Lawyer "M" | November 12, 2004 | Securities | Vancouver | Yes |
| Male Lawyer "V" | November 12, 2004 | Provincial Prosecutor | Vancouver | No |
| Female Lawyer "W" | November 16, 2004 | Family | North Vancouver | Yes |
| Female Lawyer "N" | November 17, 2004 | Immigration | North Vancouver | No |
| Male Lawyer "O" | November 17, 2004 | Administrative | Vancouver | No |
| Male Lawyer "P" | November 17, 2004 | Mix-Bag Barrister | Burnaby | No |
| Male Lawyer "Q" | November 18, 2004 | Corporate/ Commercial/Real Estate | Abbotsford | No |
| Female Lawyer "R" | November 19, 2004 | Criminal Defence | Vancouver | Yes |
| Female Lawyer "S" | November 20, 2004 | Securities | Vancouver | No |
| Female Lawyer "X" | November 24, 2004 | Health | Vancouver | Yes |
| Female Lawyer "T" | November 25, 2004 | Corporate/ Commercial/ Real Estate | Vancouver | No |
| Female Lawyer "U" | December 2, 2004 | Tax litigation | Vancouver | No |
| Male Lawyer "Y" | December 15, 2004 | Litigation - Media Law | Vancouver | No |

As shown in the above table, the participants practice in various areas of the Lower Mainland, and their legal experiences range from three to fifty years. In addition, three participants in the Study are Queen's Counsel.

Procedure

The researcher conducted face-to-face and telephone interviews with the participants during the period February 24, 2004 to December 2, 2004. The interviews lasted anywhere from thirty minutes to two and one-half hours wherein the participants were extremely forthcoming and engaging. Accordingly, the researcher adopted the same format with all the participants, that is, prefaced interviews with the disclaimer that no confidentiality or sensitivities would be breached and assured each participant that their identities would remain anonymous. Once that information was disclosed, all the participants agreed to sign the Lawyers' Consent Form (Appendix V). 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 violence and threats against lawyers.

All face-to-face interviews were taped sessions, but only field notes were prepared during the telephone interviews. Both the taped interviews and field notes were transcribed verbatim into the computer system, Microsoft Word, for analysis and coding. Subsequent to coding and analysis, all the tapes were erased.

CHAPTER 4: SURVEY RESULTS – ANALYSIS AND DISCUSSION OF THE SURVEY

Introduction

Data analysis was conducted using the Statistical Package for Social Sciences (SPSS). The hypotheses of statistical significance between independent and dependent variables were tested with Chi-Square analysis and Independent Samples T-test. Hypotheses of no differences were rejected at a level of significance of $p > .05$.

Univariate Analysis

The following tables set out the frequency and descriptive distributions of all variables on the Survey.

Gender

Table 7 points out the gender breakdown from the Survey. As such, 32.4 percent of the respondents were female, which is a slightly higher percentage than the proportion of female practitioners (30.9%) who are practicing members of the Law Society of British Columbia.

Table 7: Gender n=1152

| | | Frequency | Percent | Cumulative Percent |
|--------------|---------------|------------------|----------------|-------------------------------|
| Valid | Male | 779 | 67.6 | 67.6 |
| | Female | 373 | 32.4 | 100.0 |
| | Total | 1152 | 100.0 | |

Age

Table 8 sets out the breakdown of the respondents' ages. As indicated, there were very few lawyers under the age of thirty years who responded to the Survey (4%), compared to those lawyers aged thirty-one to fifty-one years and older (96% of the total sample). The largest category range was the forty-one to fifty years (35.7%).

Table 8: Age n=1152

| | | Frequency | Percent | Cumulative Percent |
|--------------|--------------------------|------------------|----------------|-------------------------------|
| Valid | 30 years or under | 46 | 4.0 | 4.0 |
| | 31 to 40 | 346 | 30.0 | 34.0 |
| | 41 to 50 | 411 | 35.7 | 69.7 |
| | 51 or older | 349 | 30.3 | 100.0 |
| | Total | 1152 | 100.0 | |

Legal Practice

The breakdown of the respondents' areas of legal practice is delineated in Table 9. Although there were thirteen pre-determined categories listed in Question No. Three, the open-ended portion entrenched in this question allowed the respondents to quote other legal specialties. Therefore, the final number of specialty areas ultimately recorded was forty-six. As demonstrated in Table 9, the largest percentage of respondents practiced in the following fields: general litigation (25.5%); Corporate/Commercial/Real Estate (18.6%); Labour/Employment/Human Rights (7.7%), Family/Divorce (7.6%), and

Provincial Prosecutors (6.3%). The remainder of the respondents practiced in widely diverse areas of expertise.

Table 9: Legal Practice n=1152

| | | Frequency | Percent | Cumulative Percent |
|-------|--|-----------|---------|-----------------------|
| Valid | Criminal Defence | 51 | 4.4 | 4.4 |
| | Provincial Prosecutor | 73 | 6.3 | 10.8 |
| | Family/divorce | 88 | 7.6 | 18.4 |
| | Wills/Estates | 22 | 1.9 | 20.3 |
| | Securities | 56 | 4.9 | 25.2 |
| | Administrative | 43 | 3.7 | 28.9 |
| | Environmental | 10 | .9 | 29.8 |
| | Federal Prosecutor | 25 | 2.2 | 31.9 |
| | Corporate/Commercial/Real Estate | 214 | 18.6 | 50.5 |
| | Labour/Employment/Human Rights | 89 | 7.7 | 58.2 |
| | General litigation | 294 | 25.5 | 83.8 |
| | Maritime | 7 | .6 | 84.4 |
| | Aboriginal | 31 | 2.7 | 87.1 |
| | Local government | 15 | 1.3 | 88.4 |
| | Insurance | 6 | .5 | 88.9 |
| | Tax | 16 | 1.4 | 90.3 |
| | In-house Counsel | 14 | 1.2 | 91.5 |
| | Intellectual property | 20 | 1.7 | 93.2 |
| | Immigration | 20 | 1.7 | 95.0 |
| | Entertainment | 6 | .5 | 95.5 |
| | Insolvency | 13 | 1.1 | 96.6 |
| | Mining | 1 | .1 | 96.7 |
| | General Solicitor | 1 | .1 | 96.8 |
| | Regulatory Offences | 1 | .1 | 96.9 |
| | Mental Incapacity | 1 | .1 | 97.0 |
| | Child Removal | 1 | .1 | 97.0 |
| | Charities, Trusts, Pensions, Benefits | 5 | .4 | 97.5 |
| | Construction | 1 | .1 | 97.6 |
| | Legal Aid | 2 | .2 | 97.7 |
| | Public Policy | 2 | .2 | 97.9 |
| | IP/IT | 1 | .1 | 98.0 |
| | Poverty Law | 2 | .2 | 98.2 |
| | Corporate Counsel | 1 | .1 | 98.3 |
| | Creditor's Remedies | 3 | .3 | 98.5 |
| | Associate Counsel | 1 | .1 | 98.6 |
| | Properties Solicitor | 1 | .1 | 98.7 |

| | Frequency | Percent | Cumulative Percent |
|---------------------------------------|-------------|--------------|--------------------|
| Life & Health Insurance | 1 | .1 | 98.8 |
| Product Liability | 1 | .1 | 98.9 |
| Research | 2 | .2 | 99.0 |
| Strata Property | 1 | .1 | 99.1 |
| General Practice | 3 | .3 | 99.4 |
| Anti-Trust Competition | 1 | .1 | 99.5 |
| Mediation | 2 | .2 | 99.7 |
| Tribunal Decisions | 1 | .1 | 99.7 |
| Corporate Finance/Banking | 2 | .2 | 99.9 |
| Lesbian, Gay, Bisexual, Transgendered | 1 | .1 | 100.0 |
| Total | 1152 | 100.0 | |

Years of Practice

The assemblage “years of practice” was presented to determine the number of years each participant had been practicing law since his or her call to the Bar. Accordingly, the categories were defined to correlate to the varying years of legal experience each lawyer amasses as (s)he progresses through a lifetime of lawyering. As displayed in [Table 10](#), only three individuals practicing law for less than one year responded to the survey, while the largest percentage of respondents (25.3%) had been working as lawyers for twenty-one to thirty years.

Table 10: Years of Practice n=1152

| | Frequency | Percent | Cumulative Percent |
|--------------------------|-------------|--------------|--------------------|
| Valid Less than one year | 3 | .3 | .3 |
| 1-5 years | 171 | 14.8 | 15.1 |
| 6-10 years | 189 | 16.4 | 31.5 |
| 11-15 years | 204 | 17.7 | 49.2 |
| 16-20 years | 203 | 17.6 | 66.8 |
| 21-30 years | 291 | 25.3 | 92.1 |
| 31 years or more | 91 | 7.9 | 100.0 |
| Total | 1152 | 100.0 | |

Types of Threats

As exposed in Table 11, out of the total number of 1,152 lawyers who completed the Survey, six hundred and eighty-three individuals, or 59.3 percent, reported receiving some degree and number of threats. This figure represents 12.3 percent of those practitioners polled, or approximately 7 percent of the practicing members of the British Columbia Bar Association, notwithstanding 3,738 lawyers had not been surveyed.

Table 11: Types of Threats n=1152

| | | Frequency | Percent | Cumulative Percent |
|--------------|--|------------------|----------------|-------------------------------|
| Valid | Have never received any threatening behaviour | 469 | 40.7 | 40.7 |
| | Inappropriate Communication | 232 | 20.1 | 60.9 |
| | Threats (explicit) | 133 | 11.5 | 72.4 |
| | Inappropriate approach | 95 | 8.2 | 80.6 |
| | Physical assault | 12 | 1.0 | 81.7 |
| | Combination of the above | 211 | 18.3 | 100.0 |
| | Total | 1152 | 100.0 | |

In response to the open-ended component embedded in this question, a wide variety of experiences were recounted. The following self-reports offer vivid descriptions of the violence and abuse suffered by responding lawyers:

- ◆ “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”

Number of Threats

As demonstrated in Table 12, the quantity of threats demonstrates that many occurrences of violence and/or threats are not random or isolated incidents. A full 40.3 percent of the respondents reported two or more threats versus 18.9 percent who reported only one occurrence. These results indicate that many lawyers are being threatened on more than one occasion, perhaps even on a regular basis in some instances.

Location of the Threats

The location of threats and/or violence showed a divergency of responses. As exhibited in Table 13, slightly less than one-half of the respondents reported events occurring in their place of business; 13.3 percent at the courthouse; 8.2 percent elsewhere; and more than one-quarter of the respondents reported events in a combination of

locations. A further study should be conducted to collect more detailed information on precise threat locations for every incident so that security measures can be contemplated in the future.

Table 12: Number of Threats n=1152

| | | Frequency | Percent | Cumulative Percent |
|-------|-------------------|-------------|--------------|-----------------------|
| Valid | None | 469 | 40.7 | 40.7 |
| | One | 218 | 18.9 | 59.6 |
| | Two | 191 | 16.6 | 76.2 |
| | Three | 96 | 8.3 | 84.5 |
| | Four | 37 | 3.2 | 87.8 |
| | More than four | 141 | 12.2 | 100.0 |
| | Total | 1152 | 100.0 | |

Table 13: Location of Threats n=683

| | | Frequency | Percent | Cumulative Percent |
|-------|--------------------|------------|--------------|-----------------------|
| Valid | Business office | 304 | 44.5 | 44.5 |
| | Residence | 15 | 2.2 | 46.7 |
| | Courthouse | 91 | 13.3 | 60.0 |
| | Elsewhere | 56 | 8.2 | 68.2 |
| | Combination | 217 | 31.8 | 100.0 |
| | Total | 683 | 100.0 | |

Correlation

Table 14 demonstrates that out of the 683 respondents who reported some type of violence/threats, fifty-two respondents reported that the same person was responsible both for written or verbal abuse (“howlers”), and a physical or inappropriate approach

(“hunters”). Thus, some threateners who communicated through written and/or verbal methods escalated their abuse to some form of face-to-face confrontations or physical assault. Further, eighteen respondents reported no correlation, and eight respondents noted that they did not know if there was any correlation between perpetrators. Finally, the remainder of the respondents (605), who received some form of threat, reported that this question was inapplicable to their circumstances.

Table 14: Correlation **n=1152**

| | | Frequency | Percent | Valid Percent | Cumulative Percent |
|-------|----------------|-------------|--------------|---------------|--------------------|
| Valid | Yes | 52 | 4.5 | 4.5 | 4.5 |
| | No | 18 | 1.6 | 1.6 | 6.1 |
| | Do not know | 8 | .7 | .7 | 6.8 |
| | Not applicable | 1074 | 93.2 | 93.2 | 100.0 |
| | Total | 1152 | 100.0 | 100.0 | |

Reported to Police

As set out in Table 15, of those lawyers reporting violence and/or threats (683 respondents), almost one-quarter or 23.3 percent sought police assistance; almost one-half (43.2%) did not, and the remainder (33.5%) did not think it germane to their circumstances. As stated earlier, for many lawyers of the private bar, seeking police assistance may be their only recourse.

Table 15: Reported to Police n=683

| | | Frequency | Percent | Cumulative Percent |
|-------|----------------|-----------|---------|--------------------|
| Valid | Yes | 159 | 23.3 | 23.3 |
| | No | 295 | 43.2 | 66.5 |
| | Not applicable | 229 | 33.5 | 100.0 |
| | Total | 683 | 100.0 | |

Altered Business Conduct

As shown in Table 16, from the number of lawyers reporting violence (683 respondents), 31 percent changed their business conduct to some extent and 2.8 percent changed their conduct a great deal. Also, it is noteworthy that fifteen lawyers, who reported receiving no incidents of violence, changed their business conduct to some degree. This statistical result begs the question whether lawyers changed their conduct as a defensive mechanism against further threats and/or assaults, or altered business behaviour as an offensive strategy to take account of potential victimization

Table 16: Altered Business Conduct n=1152

| | | | Altered business conduct | | | Total |
|----------------|----------------|------------|--------------------------|-----------|--------------|-------|
| | | | Not at all | Somewhat | A great deal | |
| No. of Threats | None | Count | 454 | 15 | 0 | 469 |
| | One | Count | 166 | 51 | 1 | 218 |
| | Two | Count | 135 | 52 | 4 | 191 |
| | Three | Count | 59 | 33 | 4 | 96 |
| | Four | Count | 26 | 10 | 1 | 37 |
| | More than four | Count | 66 | 66 | 9 | 141 |
| Total | Count | 906 | 227 | 19 | 1152 | |

Bivariate Analysis

A bivariate analysis of numerous relationships among key variables yielded interesting results. Correlations were tested using Chi-Square analysis and Independent Samples T-test, and analyses indicate varying levels of significance. Although there are many significant findings, a few insignificant surprises surfaced.

Gender and Types of Threats

Chi-square analysis was conducted to ascertain the significance between gender and types of threats; meaningful differences were observed. As indicated in Table 17, 61.4 percent of female lawyers revealed they received threatening behaviour, receiving more threats than male practitioners in three out of the five categories, namely inappropriate communication, inappropriate approaches, and a combination of threats. For instance, 22.5 percent of female respondents received inappropriate communications compared to 19.0 percent of their male counterparts. Similarly, the ratio for inappropriate approaches was significant, with 10 percent of the female practitioners being inappropriately approached as opposed to 8.7 percent of male lawyers who reported such approaches. With regard to a combination of threats, 21.7 percent of women practitioners reported receiving a blending of threats contrasted with 16.7 percent of the male respondents.

Conversely, however, approximately 13.8 percent of male lawyers reported receiving explicit threatening communications compared to only 6.7 percent of female lawyers. Therefore, assumptions can be proffered that disgruntled individuals are more inclined to write or communicate with male lawyers, but use more aggressive tactics or in-person altercations with female lawyers.

No significant differences were observed in terms of gender disparities with regard to location of threats ($\chi^2= 5.35$, $p> .05$), and reports to the police ($\chi^2= 1.47$, $p > .05$). In fact, there were irrelevant differences between male and female lawyers concerning locations of threats, and very little dissimilarity with regard to the number of reports to police. For example, both genders were equally likely to be threatened or approached in various locations, and evenly likely to report matters to the police. To this end, 14.0% of male lawyers reported threats to the police, while 13.4% of female lawyers did the same.

Likewise, an Independent Samples t-Test failed to produce significant differences between genders on the number of threats received, with each lawyer receiving an average of just over two threats. Accordingly, this indicates that violence is directed at their vocation, not their gender ($t = .669$).

Gender and Altered Business Conduct

What is notably significant is the difference in female lawyers who altered their business conduct as opposed to male practitioners. In fact, a far greater percentage of female practitioners altered their business conduct to a greater degree over their male counterparts. As specified in Table 18, 26.8 percent of female lawyers altered their practice, while only 18.8 percent of their male colleagues did so.

Table 17: Gender/Types of Threats n=1152

| Types of Threats | | Count | Gender | | Total |
|---|-----------------|--------|--------|--------|-------|
| | | | Male | Female | |
| Have never received any threatening behaviour | | 325 | 144 | 469 | |
| | % within gender | 41.7% | 38.6% | 40.7% | |
| Inappropriate Communication | | 148 | 84 | 232 | |
| | % within gender | 19.0% | 22.5% | 20.1% | |
| Threats (explicit) | | 108 | 25 | 133 | |
| | % within gender | 13.9% | 6.7% | 11.5% | |
| Inappropriate approach | | 58 | 37 | 95 | |
| | % within gender | 7.4% | 9.9% | 8.2% | |
| Physical assault | | 10 | 2 | 12 | |
| | % within gender | 1.3% | .5% | 1.0% | |
| Combination | | 130 | 81 | 211 | |
| | % within gender | 16.7% | 21.7% | 18.3% | |
| Total | | 779 | 373 | 1152 | |
| | % within gender | 100.0% | 100.0% | 100.0% | |

$\chi^2 = 20.06$

$p < .01$

Table 18: Gender and Altered Business Conduct n=1152

| | | | Gender | | Total |
|--------------------------|-----------------|-----------------|--------|--------|-------|
| | | | Male | Female | |
| Altered Business Conduct | Not at all | Count | 633 | 273 | 906 |
| | | % within gender | 81.3% | 73.2% | 78.6% |
| | Somewhat | Count | 137 | 90 | 227 |
| | | % within gender | 17.6% | 24.1% | 19.7% |
| | A great deal | Count | 9 | 10 | 19 |
| | | % within gender | 1.2% | 2.7% | 1.6% |
| Total | Count | 779 | 373 | 1152 | |
| | % within gender | 100.0% | 100.0% | 100.0% | |

$\chi^2 = 11.125$ $p < .01$

Age/Years of Practice and Number of Threats

The dependent variable “number of threats” was recoded from an interval to ordinal variable for analysis. As shown in Table 19 and in Figure 1, a predictable pattern developed that is consistent with cumulative numbers. Since the respondents were not asked to limit incidents to a restricted time period but rather to a lifetime of practicing law, the inevitability of incidents increasing over this time period is expected, as clearly indicated in Table 19 and Figure 1.

However, what is significant and requires further analysis is why those older lawyers practicing law for thirty-one years or more reported fewer incidents of violence than their younger cohorts as indicated in Figure 1? According to the self-reports from ninety-one lawyers in this category, 7.6 percent of the respondents reported no victimizations at all, and a mere 10.6 percent of lawyers reported four or more incidents. Consequently, there may be a number of reasons for this anomaly.

According to a survey by Harris and Associates for the National Council on the Aging of persons 65 years of age and older, “fear of crime/crime” was named as the most serious problem facing older people on a day-to-day basis (Wolf, 2000). Also, as Rothman, Dunlop and Entzel (2000) explain, increased vulnerability to criminal attacks is generally considered a consequence of growing older. Therefore, applying these hypotheses to the legal profession, it is possible to conceive that as lawyers age, they may gradually develop subliminal defensive strategies to protect themselves from confrontations and abusive situations. As opposed to younger lawyers who may embrace pro-active legal strategies and debates, older lawyers may adopt tactics as a self-protective mechanism against aggressive behaviours. However, the question remains, why did this same cohort of older lawyers practicing law for thirty-one years or more not receive more threats when they were younger?

The theoretical assumption is that a paradigm shift in the legal profession has occurred, shifting from a professional status to a business approach. From the literature review, and the twenty-five lawyer interviews set out in Chapter 5 herein, many lawyers agree that the way society perceives lawyers and the legal system has changed. Lawyers who practiced thirty years ago may have approached the practice of law in an entirely different manner and engendered more trust and earned more respect from the public. A recent shift from a professional paradigm to more of a business approach, compounded with media derision, and the public’s possible ignorance of laws and the justice system, may underpin increasing violence and animosity against lawyers in the last twenty years. Consequently, violence against lawyers may be a relatively recent phenomenon.

Age/Years of Practice and Types of Threats

The variable “types of threats” was recoded by amalgamating inappropriate approach and physical assault into one category in order to conduct relevant analysis. As expected, Table 20 indicates that threatening communications and a combination of threats/violence substantially increase as lawyers age. Similarly, as demonstrated in Figure 2, the intensity of threats increases the longer a lawyer practices law. This is consistent with the aforementioned analysis, that the inevitability of increased severity of incidents accumulates with age/years of practice.

Table 19: Age and Number of Threats (Recode) n=1152

| | | | AGE | | | | Total |
|----------------------------------|-------------------|-----------------|----------------------------|----------|----------|----------------|------------|
| | | | 30 years or under | 31 to 40 | 41 to 50 | 51 or older | |
| Number of Threats (Recode) | None | Count | 22 | 164 | 168 | 115 | 469 |
| | | % within age | 47.8% | 47.4% | 40.9% | 33.0% | 40.7% |
| | One - Two | Count | 19 | 128 | 144 | 118 | 409 |
| | | % within age | 41.3% | 37.0% | 35.0% | 33.8% | 35.5% |
| | Three - Four | Count | 2 | 27 | 53 | 51 | 133 |
| | | % within age | 4.3% | 7.8% | 12.9% | 14.6% | 11.5% |
| | More than Four | Count | 3 | 27 | 46 | 65 | 141 |
| | | % within age | 6.5% | 7.8% | 11.2% | 18.6% | 12.2% |
| Total | | Count | 46 | 346 | 411 | 349 | 1152 |
| | | % within age | 100.0 | 100.0 | 100.0 | 100.0% | 100.0 % |

$$x^2 = 39.036$$

$$p < .01$$

Figure 1: Years of Practice and Number of Threats n=1152

$\chi^2 = 39.839$

$p < .01$

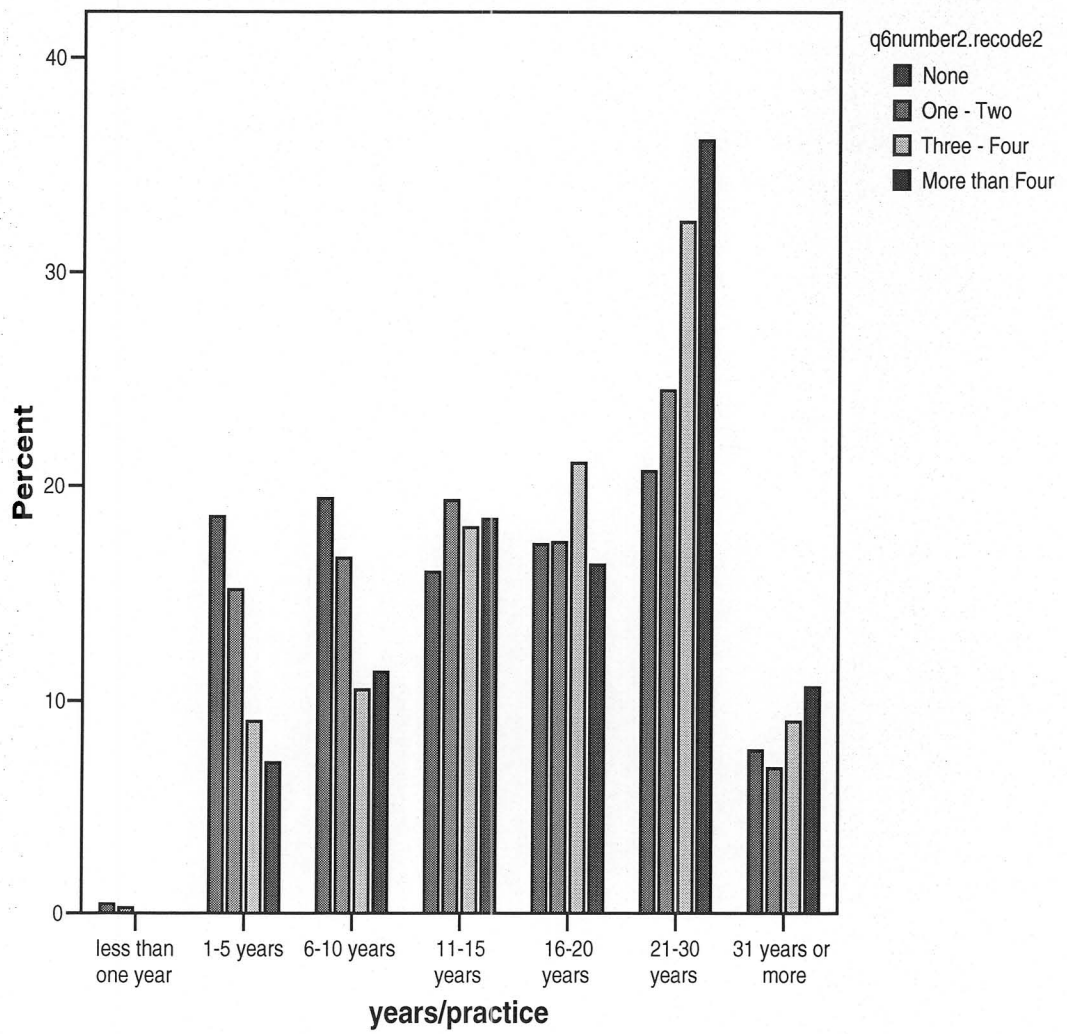


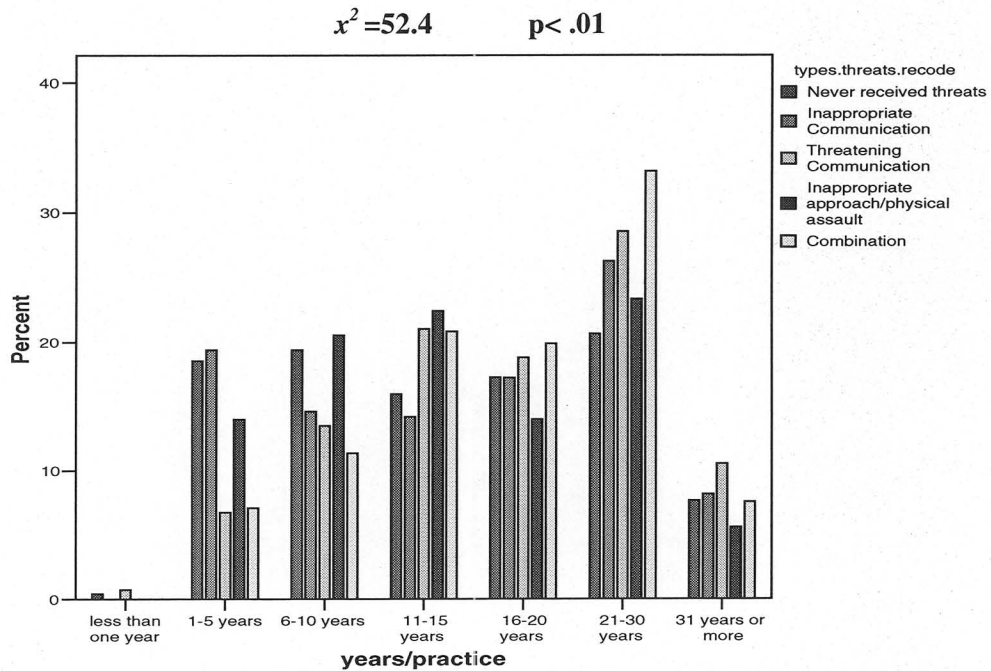
Table 20: Age and Types of Threats

$\chi^2 = 35.2$

$p < .01$

| Types.Threats (Recode) | Never received threats | Count | AGE | | | | TOTAL |
|---------------------------|---|--------------|-------------------|----------|----------|-------------|-------|
| | | | 30 years or under | 31 to 40 | 41 to 50 | 51 or older | |
| | | Count | 22 | 164 | 168 | 115 | 469 |
| | | % within age | 47.8% | 47.4% | 40.9% | 33.0% | 40.7% |
| | Inappropriate Communication | Count | 11 | 69 | 73 | 79 | 232 |
| | | % within age | 23.9% | 19.9% | 17.8% | 22.6% | 20.1% |
| | Threatening Communication | Count | 4 | 33 | 49 | 47 | 133 |
| | | % within age | 8.7% | 9.5% | 11.9% | 13.5% | 11.5% |
| | Inappropriate approach/ physical assault | Count | 8 | 34 | 37 | 28 | 107 |
| | | % within age | 17.4% | 9.8% | 9.0% | 8.0% | 9.3% |
| | Combination | Count | 1 | 46 | 84 | 80 | 211 |
| | | % within age | 2.2% | 13.3% | 20.4% | 22.9% | 18.3% |
| | Total | Count | 46 | 346 | 411 | 349 | 1152 |

Figure 2: Years of Practice and Types of Threats n=1152



However, no significant differences were observed regarding lawyers' self-reports on altering his or her business conduct. Overall, lawyers from every age, and from every category of years of practice, similarly reported altering, or not altering, their business conduct ($\chi^2 = 3.6, p > .05$), ($\chi^2 = 7.66, p > .05$). Therefore, it is proffered that lawyers' decisions to change their business conduct is contingent on each subjective interpretation of the seriousness of the threat, and whether safeguards needed to be implemented.

Areas of Legal Practice and Number of Threats

The forty-six legal practice areas were substantially recoded in order to conduct adequate analysis. The adopted recoding formula was based on the percentage of each legal practice. For example, as set out in Table 21, practice specialties that only constituted one percent to two percent of the total sample were grouped and recoded as "1% - 2%", while those comprising less than one percent were recoded as "Less Than

1%”. And lastly, the two prosecutorial levels were combined into one category entitled “Federal/Provincial Prosecutor”. Thus, the recoding efforts were processed as follows:

Table 21: Legal Practice Recodes

| NEW CODES | AFFECTED AREAS OF PRACTICE |
|-------------------------------|--|
| 1% - 2% | Local Government, Tax, In-house counsel, Intellectual Property, Immigration, Insolvency and Wills/Estates |
| Less Than 1% | Environmental, Maritime, Insurance, Entertainment, Mining, General Solicitor, Regulatory Offences, Mental Incapacity, Child Removal, Charities/Trusts/Pensions/Benefits, Construction, Legal Aid, Public Policy, IP/IT, Poverty Law, Corporate Counsel, Creditor’s Remedies, Associate Counsel, Properties Solicitor, Life & Health Insurance, Product Liability, Research, Strata Property, General Practice, Anti-Trust Competition, Mediation, Tribunal Decisions and Corporate Finance/Banking |
| Federal/Provincial Prosecutor | Federal Prosecutor, Provincial Prosecutor |

In sum, the recoding process reduced the legal practice categories from forty-six to eleven. Furthermore, the number of threats was also recoded to change the sequence from an interval to an ordinal variable in order to appropriately undertake Chi-square analysis.

Therefore, the results presented in [Table 22](#) support existing research findings that family/divorce, prosecutors and criminal defence lawyers are more vulnerable to violence in their practice as opposed to lawyers in other legal specialties. 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 anywhere from one to more than four threatening actions. In addition, the largest contingent of respondents, namely general litigation (294 respondents), reported that 64.7 percent of lawyers received one to four or more threats. But what was also significant and not supported or analyzed in the

literature was the fact that, in addition to the other areas of practice more obviously vulnerable to threats, 76.7 percent of administrative law practitioners also reported receiving a varying number of threats, followed closely by 62.9 percent of labour and human rights practitioners, who also noted varying levels of violence and/or threats.

Legal practitioners from almost every type of practice reported some type and quantity of threats, with only a few exceptions. These exceptions constituted a single response each from such areas as mining, mental incapacity, construction, IP/IT, Corporate Counsel, Product Liability and Anti-Trust Competition. These individual lawyers were the only respondents reporting that they had received no threatening action during the course of their legal practice.

Table 22: Areas of Legal Practice (Recode) and Number of Threats (Recode) n=1152

| Number of Threats | Criminal Defence | Federal/ Provincial Prosecutor | Family/Divorce | Securities | Administrative | Corporate/ Commercial/ Real Estate |
|-------------------|--------------------|--------------------------------|--------------------|--------------------|--------------------|------------------------------------|
| None | 14 27.5% | 18 18.4% | 12 13.6% | 38 67.9% | 10 23.3% | 134 62.6% |
| One – Two | 16 31.4% | 47 48.0% | 31 35.2% | 10 17.9% | 16 37.2% | 58 27.1% |
| Three – Four | 5 9.8% | 10 10.2% | 21 23.9% | 3 5.4% | 9 20.9% | 16 7.5% |
| More than Four | 16 31.4% | 23 23.5% | 24 27.3% | 5 8.9% | 8 18.6% | 6 2.8% |
| TOTAL | 51 100% | 98 100% | 88 100% | 56 100% | 43 100% | 214 100% |

| Number of Threats | General Litigation | Aboriginal | 1% - 2% | Labour/ Human Rights | Less than 1% | TOTAL |
|-------------------|---------------------|--------------------|---------------------|----------------------|--------------------|----------------------|
| None | 104 35.4% | 17 54.8% | 58 48.3% | 33 37.1% | 31 45.6% | 469 40.7% |
| One – Two | 126 42.9% | 10 32.3% | 37 30.8% | 38 42.7% | 20 29.4% | 409 35.5% |
| Three – Four | 37 12.6% | 2 6.5% | 15 12.5% | 8 9.0% | 7 10.3% | 133 11.5% |
| More than Four | 27 9.2% | 2 6.5% | 10 8.3% | 10 11.2% | 10 14.7% | 141 12.2% |
| TOTAL | 294 100% | 31 100% | 120 100% | 89 100% | 68 100% | 1152 100% |

$\chi^2 = 181.47$ $p < .01$

Areas of Legal Practice and Types of Threats

Lawyers experience varying degrees of inappropriate conduct, ranging from relatively mild inappropriate communication up to overt acts to physical violence causing serious injury. Table 23 outlines the degrees of violence experienced by lawyers in the various legal specialties. The categories of inappropriate approach and physical assault were amalgamated and recoded into one category. Accordingly, the data support literature that criminal defence, federal/provincial prosecutors, and family/divorce lawyers have a tendency to attract outright violence. For instance, 31.4 percent of criminal defence practitioners admitted receiving a combination of threats, while 44.3 percent of family/divorce lawyers similarly encountered a combination of threats. On the other hand, a slightly smaller percentage of federal and provincial prosecutors faced a combination of threats, but did significantly encounter a much higher percentage of inappropriate approaches and physical assaults, namely 22.4 percent. This coincides with current research that prosecutors, whose primary legal practice locale is the courtroom, would encounter many perpetrators in face-to-face confrontations, more so perhaps than other lawyers who infrequently visit the courthouse. Also noteworthy are the 14.0 percent of administrative lawyers who faced inappropriate approaches and/or physical assault and 23.3 percent who encountered a combination of violence and/or threats. In sum, it is significant that approximately 211 lawyers, or 18.3 percent of the entire sample reported receiving a combination of violence/threats.

**Table 23: Areas of Legal Practice (Recode)
and Types of Threats (Recode) n=1152**

| Types of Threats | Criminal Defence | Federal/ Provincial Prosecutor | Family/ Divorce | Securities | Administrative | Corporate/ Commercial/ Real Estate |
|--|--------------------|--------------------------------|--------------------|--------------------|--------------------|------------------------------------|
| None | 14 27.5% | 18 18.4% | 12 13.6% | 38 67.9% | 10 23.3% | 134 62.6% |
| Inappropriate Communication | 11 21.6% | 16 16.3% | 14 15.9% | 8 14.3% | 11 25.6% | 38 17.8% |
| Threats (Explicit) | 7 13.7% | 14 14.3% | 13 14.8% | 3 5.4% | 6 14.0% | 20 9.3% |
| Inappropriate Approach/ physical Assault | 3 5.9% | 22 22.4% | 10 11.4% | 4 7.1% | 6 14.0% | 10 4.7% |
| Combination | 16 31.4% | 28 28.6% | 39 44.3% | 3 5.4% | 10 23.3% | 12 5.6% |
| TOTAL | 51 100% | 98 100% | 88 100% | 56 100% | 43 100% | 214 100% |

| Types of Threats | General Litigation | Aboriginal | 1% - 2% | Labour/ Human Rights | Less than 1% | TOTAL |
|---|---------------------|--------------------|---------------------|----------------------|--------------------|----------------------|
| None | 104 35.4% | 17 54.8% | 58 48.3% | 33 37.1% | 31 45.6% | 469 40.7% |
| Inappropriate Communication | 67 21.8% | 6 19.4% | 25 20.8% | 25 28.1% | 11 16.2% | 232 20.1% |
| Threats (Explicit) | 42 14.3% | 1 3.2% | 9 7.5% | 11 12.4% | 7 10.3% | 133 11.5% |
| Inappropriate Approach/Physical Assault | 26 8.8% | 4 12.9% | 8 5.7% | 9 10.1% | 5 7.4% | 107 9.3% |
| Combination | 55 18.7% | 3 9.7% | 20 16.7% | 11 12.4% | 14 20.6% | 211 18.3% |
| TOTAL | 294 100% | 31 100% | 120 100% | 89 100% | 68 100% | 1152 100% |

$$x^2 = 191.02 \quad p < .01$$

Areas of Legal Practice and Location of Threats

Table 24 compares the types of various practices and the location of the threats. Not surprisingly, there are significant differences in the locations of such threats. The assumption would be that lawyers practicing primarily as solicitors would encounter a

majority of their threats in their business offices as opposed to those barristers whose legal practice primarily takes place in a courtroom setting. First of all, federal/provincial prosecutors were significantly more likely to report threats in a courtroom setting. In fact, 37.8 percent of the provincial/federal prosecutors reported receiving threats in that venue. However, what is interesting to note is that other types of lawyers such as general litigation, family/divorce and criminal defence practitioners, who also spend a great deal of time in courthouses, reported receiving a higher percentage of threats either in their business office/residence or a combination of locations. Alternatively, almost one-half of the administrative lawyers (46.5%) reported receiving threats at their business/residence.

Table 24: Areas of Legal Practice (Recode) and Location of Threats (Recode) n = 1152

| Location of Threats | Criminal Defence | Federal/Provincial Prosecutor | Family/Divorce | Securities | Administrative | Corporate/Commercial/Real Estate |
|---------------------|--------------------|-------------------------------|--------------------|--------------------|--------------------|----------------------------------|
| Business/Residence | 8 15.7% | 13 13.3% | 25 28.4% | 9 16.1% | 20 46.5% | 59 27.6% |
| Courthouse | 8 15.7% | 37 37.8% | 4 4.5% | 1 1.8% | 3 7.0% | 6 2.8% |
| Elsewhere | 5 9.8% | 6 6.1% | 5 5.7% | 3 5.4% | 3 7.0% | 6 2.8% |
| Combination | 16 31.4% | 24 24.5% | 42 47.7% | 5 8.9% | 7 16.3% | 9 4.2% |
| Not Applicable | 14 27.5% | 18 18.4% | 12 13.6% | 38 67.9% | 10 23.33% | 134 62.6% |
| TOTAL | 51 100% | 98 100% | 88 100% | 56 100% | 43 100% | 214 100% |

| Location of Threats | General Litigation | Aboriginal | 1% - 2% | Labour/Human Rights | Less than 1% | TOTAL |
|---------------------|---------------------|--------------------|---------------------|---------------------|--------------------|----------------------|
| Business/Residence | 87 29.6% | 9 29.0% | 38 31.7% | 33 37.1% | 18 26.5% | 319 27.7% % |
| Courthouse | 21 7.1% | 1 3.2% | 7 5.8% | 1 1.1% | 2 2.9% | 91 7.9% |
| Elsewhere | 12 4.1% | 2 6.5% | 5 4.2% | 7 7.9% | 2 2.9% | 56 4.9% |
| Combination | 70 23.8% | 2 6.5% | 12 10% | 15 16.9% | 15 22.1% | 217 18.8% |
| Not Applicable | 104 35.4% | 17 54.8% | 58 48.3% | 33 37.1% | 31 45.6% | 469 40.7% |
| TOTAL | 294 100% | 31 100% | 120 100% | 89 100% | 68 100% | 1152 100% |

$\chi^2 = 323.7$ $p < .01$

Areas of Legal Practice and Reported to Police

Results concerning types of practice and whether matters were reported to police are presented in Table 25. As noted therein, as research literature suggests, those more vulnerable areas of law such as family/divorce and federal/provincial prosecutors, may be more likely to report threatening incidents to the police. However, the data also reveal that percentages are almost equal in whether federal/provincial prosecutors report to the constabulary. That is, 27.6 percent of federal/provincial prosecutors reported matters to police officials whereas 25.5 percent did not. In sum, however, notwithstanding family law practitioners have a higher percentage of reporting incidents to police, all other areas are more inclined to refrain from filing reports and ignoring potential police action.

Table 25: Areas of Legal Practice (Recode) and Reported to Police n = 1152

| Reported to Police | Criminal Defence | Federal/ Provincial Prosecutor | Family/Divorce | Securities | Administrative | Corporate/ Commercial/ Real Estate |
|--------------------|--------------------|--------------------------------|--------------------|--------------------|--------------------|------------------------------------|
| Yes | 12 23.5% | 27 27.6% | 30 34.1% | 3 5.4% | 6 14.0% | 12 5.6% |
| No | 18 35.3% | 25 25.5% | 23 26.1% | 9 16.1% | 13 30.2% | 36 16.8% |
| Not Applicable | 21 41.2% | 46 46.9% | 35 39.8% | 44 78.6% | 24 55.8% | 166 77.6% |
| TOTAL | 51 100% | 98 100% | 88 100% | 56 100% | 43 100% | 214 100% |

| Reported to Police | General Litigation | Aboriginal | 1% - 2% | Labour/ Human Rights | Less than 1% | TOTAL |
|--------------------|---------------------|--------------------|---------------------|----------------------|--------------------|----------------------|
| Yes | 44 15.0% | 0 0% | 8 6.7% | 8 9.0% | 9 13.2% | 159 13.8% |
| No | 87 29.6% | 9 29.0% | 31 25.8% | 31 34.8% | 13 19.1% | 295 25.6% |
| Not Applicable | 163 55.4% | 22 71.0% | 81 67.5% | 50 56.2% | 46 67.6% | 698 60.6% |
| TOTAL | 294 100% | 31 100% | 120 100% | 89 100% | 68 100% | 1152 100% |

$\chi^2 = 113.13$

$p < .01$

Summary

The results of the data analysis have revealed significant findings. Initially, and unequivocally, it can be stated with certainty that lawyers are receiving abuse, threats, and injuries as a result of discharging legal responsibilities. Furthermore, it can also be surmised that the area of law in which a lawyer practices plays a key role towards susceptibility to violence as opposed to whether a lawyer is male or female; female practitioners may be slightly more inclined to encounter personal confrontations as opposed to male colleagues; and female lawyers are more liable to alter their business conduct. At the same time, it is noteworthy that significance was not established with regard to disparities of numbers between male and female reports to the police.

Moreover, an hypothesis can be proclaimed that lawyers' chances of encountering additional threats will increase the longer they practice law. The idea of random violence can be nullified; lawyers acting in their professional capacity are targets of violence, and the longer a lawyer practices, and as (s)he ages, the amount of abuse could increase.

And finally, substantiating the American literature on this subject, family lawyers, prosecutors and criminal defence lawyers are vulnerable to enhanced threats. However, what is extremely significant is lawyers from various other areas of practice report shifting degrees of threats and violence, establishing the pattern that not only are specific practice areas affected, but also the law profession in its entirety is under threat.

CHAPTER 5: THE INTERVIEWS

Introduction

As noted earlier in Chapter 3, twenty-five lawyers were interviewed over a period of time from February 2004 to December 2004. A thematic approach was adopted in reviewing the participants' responses, and after careful analysis and coding of the transcripts, seven prevalent themes were exposed. These themes ranged from reasons and theories underpinning violence and threats against lawyers, to courthouse security and perspectives on the media.

Theoretical Hypotheses Behind Violence in the Legal Profession

Each participant tendered his or her own opinions on the reasons underpinning violence and abuse, notwithstanding some of them had never personally received threats or violence. Their opinions included, among others, frustration with the system, especially the court system; misunderstanding and/or ignorance of Canadian laws; inability of a party to blame him/herself for legal predicaments; and the complexity of a person's mental mechanisms. In fact, a majority of the interviewees believed clients or individuals involved in litigation felt "frustrated". Other lawyers thought society in general unfavourably perceives the entire legal profession, which can create increasing intolerance of lawyers and their conduct. On the other hand, a few other participants questioned whether a lawyer's demeanour in dealing with clients, and also with other

parties associated with a legal case may foster animosity, thus generating a situation ripe for violence. Of those participants voicing this idea who had received some type of violence, not one of them blamed him/herself for instigating the violent act, although *Lawyer A* did concede “sometimes I think I bring it on myself”. Moreover, *Lawyers H and L* believe that as technology advances in business settings, clients expect immediate responses from their lawyers because of fax machines, emails, and voice mails, so the “response time just accelerates the level of expectation from the client”. In the past, lawyers usually had a week or more to respond to a client’s or other party’s demands and requests, but with the introduction of advanced computer technology, lawyers are under extreme pressure to respond to the myriad demands of a busy practice. Consequently, the practice of law in this century puts more pressure on lawyers than in previous years, and clients may become exasperated when lawyers do not respond according to a prescribed timetable.

As a young female lawyer who has been practicing criminal law for approximately three years, *Lawyer R* admits receiving daily abuses when acting as duty counsel and states when people are in conflict, they will “lash out” at their lawyer, both verbally and physically, because they are frustrated with the system, especially with the lack of resources available to them. More to the point, *Lawyer J* specifically adds people are especially frustrated with the court system. Ultimately, *Lawyer R* is disappointed that during law school, no one told, discussed or educated her on what lawyers might encounter when practicing law, nor was she advised practicing criminal defence or family law might be difficult and life-threatening at times.

Lawyer A also confesses clients could resort to violence or abuse when they want certain results and believe paying more money will achieve those results [emphasis

added]. Similarly, *Lawyer H* also agrees clients have unobtainable goals, and when those objectives are not reached, they are discontented with lawyers, or judge(s), and/or the entire legal process. As *Lawyer A* explains:

Some clients are not reasonable. You think that going to a lawyer will make the difference. The evidence, the judge you get, the facts are against you. I am telling you what is going to happen. He is angry with me because the client doesn't think that I am on his side. The easiest way to take money from a client is to tell lies that they want to hear. Is the world just? No. Of course you are not getting justice because it is not a just world. Clients want justice. Clients often turn on their lawyers when things don't go the way they want it to. Let's face it. It is terrible to have to go and have a problem and then you have to pay somebody and then the problem doesn't go away.

Thus, clients do not understand lawyers have certain standards to uphold and think lawyers can do anything to obtain improbable results, even by unethical means. As a result, it can be difficult for lawyers to deal with extremely problematic clients, certainly when they do not understand lawyers' roles and ethical boundaries in society.

Furthermore, many people are focussed on justice issues while others lack objectivity and view their positions in a completely self-serving manner, such as clients, who have a specific result in mind, and retain a lawyer with the anticipation that the legal system will rule in their favour. However, when a judge decides on the matter incongruent with the client's objective, then not only do the clients consider the judge erred, but they also feel their lawyer is wrong if (s)he dares to defend the legal system. In other words, it is perceived their lawyer is not their advocate, notwithstanding lawyers have a duty not only to their client but also to the courts was well. *Lawyer C* makes clear that:

People seek redress for perceived wrongs. Nobody wants to be accountable. People won't be accountable for the consequences of their actions. People refuse to look at both sides of an argument and concede anything that isn't in their own self-interest. So violence comes from a last desperate grasp at wresting some control over a situation over which asserting control is futile at best and not

particularly advisable and people lash out at their lawyers when frankly there is no other alternative. So lawyers are really handy as targets for rage and frustration.

An increasing sense of powerlessness, in a world where more and more people have decreasing control over larger societal forces that are ruling their lives, may propel some individuals to correct the balance. As proposed by *Lawyer C*, when individuals encounter a lawyer who is explaining the correct procedure according to the law, that lawyer may become the impetus for people's sense of powerlessness. As such, a lawyer puts a human face on their frustration, which is why some people strike back at lawyers. From a practitioner's perspective, *Lawyer X* believes if lawyers are constantly practicing in areas where there are polarized positions in a courtroom, it will lead to highly emotional situations in which people may tend to blame someone or something else, such as the legal system or the lawyers who represent the legal system, or the way judges are appointed. Further, she states people may look at this mysterious process and not truly know what happens in a courtroom or what lawyers do, but somehow in their minds it "can't be good". Therefore, they become fearful of something they misunderstand and may strike back or feel threatened when they are dealing with systems with which they are unfamiliar. *Lawyer E* senses there is polarization in the way the system is created but individuals cannot blame the lawyers for it – "it is just the way things have developed".

Lawyer T believes one of the reasons for violence involves legal situations. For instance, litigation is usually a "win/lose situation", and the court does not have the ability to compromise and make amends to both parties. Inevitably both individuals believe each of their cases has merit, but only one side will emerge the victor. Unfortunately, whether the parties win or lose, both will face huge legal expenses. However, the loser faces

greater loss – whether it is personally, professionally and/or fiscally. Therefore, *Lawyer P* philosophizes “we are the foot soldiers in the infantry in the justice system”. Lawyers are the “front-line messengers”, and people will lash out at the front line. In addition, he believes that emotions operate more quickly than the legal process, such as the slowness of the court system in obtaining trial dates, chambers hearings or other matters that require courtroom time. To compound matters, courtroom dates must be coordinated with a lawyer’s schedule, and sometime matters may take months and/or years before being heard. All of these inordinate delays may not only dismay many individuals, but also anger parties who wish contentious disputes, which may be disrupting their lives, to be quickly resolved. Added to this frustration is the fact many people disagree with the law and do not understand lawyers cannot change law or policies, and therefore think, in the end, their lawyer is not doing his/her job.

Most participants emphasized the fragility of family law. *Lawyer I*, a female family lawyer who has experienced multiple serious threats over the years, states family law is extremely emotional, especially when you are dealing with lower socio-economic groups, and money is an issue. Some of these people do not have the capacity to deal with marital upheavals, and their emotions and reactions are extreme. Moreover, because she works solely in family law, *Lawyer I* admits changing the way she deals with her clients. She is now more empathetic and currently has different ways of dealing and speaking with people. She credits this change in conduct to the multiple and serious threats she has received over the years. In fact, the seriousness of matrimonial discord has caused many of her clients to suffer mental breakdowns or become psychologically unstable because of marriage dissolution. On the other hand, *Lawyer U* feels very distant from clients’ personal emotions because her practice involves businesses and tax matters. However,

she deems other areas of practice, such as family and criminal, to be extremely emotional - freedoms, money, family, assets, and so on, are all in jeopardy, and therefore, when emotions run high, individuals may be more inclined to resort to violence. When clients come to lawyers, they are usually out of control in their life – either economically or personally or both – and their life or livelihood is in peril. Correspondingly, *Lawyer Q* believes the reason he has never received any violence and threats is also due to the nature of his practice. He is a corporate/commercial lawyer (solicitor) in a small rural community and believes when clients retain him for legal services, it is usually a positive time in their lives, such as buying or selling a house, expanding a business, incorporating a company, and so forth. According to him, personal emotions are not prevalent with his clients as he assumes they would be in family and criminal defence matters. Although he does admit foreclosure may be very stressful, clients in these types of cases are usually oriented on the business at hand. Therefore, because his clients have more business experience and acumen, are better educated and are from a higher socio-economic group, he believes these qualities may impact the parties on the way they deal with contentious and extremely stressful legal situations. He uses one example of two shareholders who were involved in a contentious dispute. In many family or criminal defence cases, the clients will look at their lawyers in a personal way and affront, but with the two battling shareholders, they perceived their lawyers as advocates only, and did not “take anything personally against their lawyers”.

A small percentage of the participants volunteered a lawyer’s demeanour with clients, opposing parties and counsel, and other parties involved in a legal matter, may set the tone for ambiguous behaviour. Depending on various factors, reaction to a lawyer’s conduct may lead to heightened hostility. For instance, *Lawyer E* stresses lawyers may

sometimes be forced to be aggressive in their courtroom tactics, but asserts lawyers are “there to test – that is their job”, but some individuals may become angry at such behaviour. Further, a lawsuit, or seeking out a lawyer because of a legal matter, or dealing with a lawyer, is a rare event for most individuals - hence it is an important matter for that person. *Lawyer T* confirms the individual relationship between lawyer and client is important as there can be lots of “chippy behaviour”, and many attitudes may provoke antagonistic reactions. So the players’ conduct may be at the heart of the reasons behind violence. In other words, it is how a lawyer deals with another individual, whether it is an aggressive, provocative or calming style. For instance, a confrontational lawyer may provoke a disastrous reaction from a client or opposing party, which could compound litigation matters that are already steeped in contention and often conclude with bad news to one or some of the parties. Hence, the lawyer is usually the bearer of disappointing news, and sometimes clients may presume that it is the lawyer’s fault and (over) react. In fact, *Lawyer K* confesses her job involves very acrimonious litigation, so she is dealing with people who are extremely angry. She justifies her courtroom strategy by admitting her job is to get an arousal from a witness and to show their weaknesses. In view of her disclosed aggressive tactics, she did concede that in the past, lawyers might have been more restrained and courteous in the courtroom. In rebuttal, *Lawyer G*, who is a holistic lawyer, says being seen as a person and not just as a client is a far superior approach in nurturing lawyer/client relationships. Furthermore, as proposed by *Lawyer E*, some of the reasons lawyers’ reputations are being tarnished is that lawyer bashing is on the increase, especially by other lawyers. A client’s lawyer will actually promote a client’s negative opinion of opposing counsel by espousing the view that the other lawyer is causing most of the trouble.

Further, an individual's physiology could play a vital role in the degrees of reactivity to stressful situations. For example, *Lawyer S* credits such factors as an individual's "level of maturity, intellect and ego, emotional capacity, and knowledge about the justice system" as triggers to whether an individual will, or will not, resort to violence. As well, she reports lawyers may bring dispassion in their advice, which people may find troubling, and notices that court registry staff and officials are also guilty of impassiveness when dealing with parties who may be involved in life-altering lawsuits. *Lawyer S* wonders why there is not more violence in the profession. Similar to other participants in this study, she summarized her interview on the unpredictability of parties' reactions when the legal outcome differs from what the lawyer has predicted, especially if the result negatives an existing situation.

Furthermore, *Lawyer S* believes many litigants obtain their legal knowledge from American television, which definitely cultivates erroneous beliefs on how the Canadian system operates. *Lawyer B* also thinks overall the Canadian public does not know the law and has no concept whatsoever of procedures and protocols. People misunderstand that judges must abide by the dictates of parliament and impose sentences consistent with what parliament has told them to do. He is convinced that, in general, individuals think a complete portrayal of a news story is what they read in a newspaper, or see on a 30-second news segment on television. In fact, most levels of courts, such as provincial, supreme, and appeal, have websites that are readily accessible, but in *Lawyer B's* words, "people, through lack of interest, through lack of time, through lack of knowledge, don't bother to inform themselves".

Two other important factors were mentioned regarding how the general public views both the legal system and the role of practitioners in society. That is, *Lawyer X*

believes it is a common notion that the justice structure is expensive, and lawyers, who are generally considered to be middle to upper class citizens who maintain an above-average lifestyle, are costly to retain. Thus, when a client from a working class background with a tenuous financial foundation retains a lawyer, the stress of legal and pecuniary problems, together with the mystery and intrigue surrounding the legal process, can create animosity and resentment. Furthermore, *Lawyer X* deems media articles can exacerbate these philosophies when it says the only people who benefit from litigation are the lawyers, which she believes is the mainstream view in society. In addition, *Lawyer M* agrees lawyers in society, rightly or wrongly, are perceived in a peculiar way; that is, “lawyers have the status that comes with being the custodians of the mysterious keys of knowledge in the legal system, which affects everybody”. He further explains that unless individuals deal with lawyers on a daily basis, the average person’s encounter with a lawyer might only be in a time of trouble. As he further elucidates, “the whole aura of bad feelings of having your normal world turned upside down is associated with that lawyer”. Therefore, he considers a cultural change is taking place in society where “lawyers’ stocks have gone down”, leading to continuing impudence that makes it easier to engage in threats or violence, since there has been implicit permission given to disrespect that profession. This prevailing philosophy of lawyers’ reputations galvanized *Lawyer P* to relay an amusing personal anecdote. His Dad, who was a plumber, always wanted him to go to law school, which he did. Now that *Lawyer P* has a teenage daughter, he hopes she will be a plumber!

And lastly, one participant criticizes lawyers’ personae. Hence, *Lawyer V* claims it is lawyers’ subjective perceptions of violence that may speciously mislead researchers into postulating about violence against lawyers. Accordingly, he believes some lawyers

might be weaker than others and tend to amplify a situation into a violent event. In addition, he voices his concern that many lawyers are unable to deal with people because they have gone through their entire life academically, capturing no concept of the real world. In fact, he went so far as to say that he finds many lawyers socially dysfunctional. Further, he considers many lawyers' egos tend to get in the way, which may enable them to engage in aggressive behaviour with clients or opposing parties, bringing additional animosity into an already sensitive situation. All of these factors may contribute to the notion that lawyers lack professionalism. However, in the end, notwithstanding the fact that *Lawyer V* is a provincial prosecutor and attends court on a regular basis, he was one of the very few participants who revealed that violence against lawyers, as an earnest topic, has never "reached his radar screen".

The Professional Paradigm

Slightly more than one-half of the lawyers agree the legal professional has shifted to a business culture, but most qualified their concession that the upkeep of current legal practices now requires an augmented business orientation. However, many of these lawyers lacked the knowledge or were unsure whether this paradigm shift supplemented theories behind violence.

Lawyer L agrees there is credence to this theory in which the nature of the legal profession has been transformed into an "income generating enterprise". He believes that in large firms there is a practice called "file building" where the objective of the exercise is not to "problem solve or make the problem go away, but to see how many billable hours you can milk from the file". He also referred to the "double teaming effect" where you might have a senior lawyer, two associates and a paralegal all working on the same

file. For that reason, he attributes the current custom in law firms to the acute pressure on lawyers to generate billable hours which, he admits, is the nature of the legal business and always will be, but probably has been exacerbated in the last decade.

Many participants point out practicing law is a business, and lawyers must adopt a business perspective in order to keep support staff, paralegals and other employees paid, sustain overheads, and maintain lease payments. As *Lawyer W* emphasizes, “lawyers just can’t afford not to do it”. *Lawyers S, W, J and H* stress there are huge expectations that private practice brings, and it is imperative lawyers bring business knowledge and thinking into a legal practice. However, *Lawyer H* supposes client service may have diminished as a result of this transition, in that some lawyers may still manage to deliver first class service to their clients, while others are just too business oriented to pay attention to it. *Lawyer P* also agrees that there is some truth to the paradigm shift. Big firms have a target for billing and refrain from doing legal aid work because it is cost ineffectual. Although some lawyers still uphold their obligations in the profession and undertake legal aid work, there are additional pressures now which were not there in the past, such as the Goods and Services and Provincial Sales taxes, and so on. Consequently, as he explains, there is a greater split for the profit, which requires an advanced orientation to business practices in order for lawyers to fiscally survive. *Lawyer T* also feels business must be at the forefront – with overhead the way it is, lawyers must always think of profit. If lawyers had no business sense, they would have a hard time servicing their clients. So she says that possibly lawyers who are having financial difficulties may commit ethical breaches or disservice their clients or execute other unscrupulous deeds to earn an income so they can cover their expenses and maintain a decent lifestyle.

Many of the participants had similar views on the changing dynamics of legal professionalism. For example, *Lawyer W* considers there are three levels of lawyers. First, there are the “older lawyers” who she views as not as compassionate with their clients as opposed to middle lawyers, who are the ones called to the bar in the late 1980s. This legion of “middle” lawyers are very conscious of “giving back” to the legal community, undertaking pro bono work, and trying to remedy the wrongs of society to some extent. And third, there are the new lawyers just out of law school who are solely interested in the business facet of practicing law, and would not, in her words, “lift a finger unless it makes them money and gets them somewhere in life”. *Lawyer W* conjectures this cohort of lawyers may regard clients in terms of monetary value only. In addition, *Lawyer F* thinks young lawyers may not be ethical anymore – they are more business and money oriented, and will achieve what is necessary to make money. He believes there is an old school and young school with lawyers. For example, he explains clients might come to see him, not because they are seeking his advice as an advocate, but to request that he make something “legal”. So, in similar circumstances, young lawyers may break the bounds of ethics to make money, and will do whatever it takes to keep a client and get paid, even if it crosses boundaries. He also believes many young lawyers have no senior lawyer supervising them, because after practicing in large law firms for a couple of years, they open their own law firm without adequate senior practitioner supervision. Ultimately, in his view, the profession of younger lawyers becomes nothing more than a business to make money. In the same way, *Lawyer V* also considers the older members of the Bar to be the “true professionals”. He agrees with the theoretical perspective that the legal profession is changing and questions the ethics and intentions of today’s legal profession. His view of the profession is, in the past, it was a matter of

honour and respectability. Lawyers carried themselves with certain decorum and conducted themselves in a professional manner, but *Lawyer V* does not see that today. He laments that type of professionalism is not recognized and admired, and all that matters now is “the bottom line and the bucks”. Ultimately, he believes the profession is more focussed on money and certain aspects of power. As a result, all these changes are reflected in how society now perceives lawyers. On the other hand, *Lawyer Q* agrees with the paradigm shift but disagrees that it applies more to younger lawyers. In his practice, he finds many of the young lawyers want to practice law, develop their skills and not have to worry about the business end of things. However, he concedes this type of philosophy is not possible, as lawyers cannot set the business aside – “they go hand in hand”.

A couple of the older lawyers revisit the profession of yesteryear and grieve over its demise. In this respect, *Lawyers E and H* consider collegiality was more prominent 30 years ago, when there were almost one-half the lawyers than the number currently practicing. In that era, they reveal, practically every lawyer knew one another – there was more socialization as opposed to the level of conviviality of the current bar. But because of the way society is presently developing, there is more alienation, and the whole concept of legal professionalism is changing.

Finally, *Lawyer M* argues this theory has no credibility as a source of violence or threats to lawyers whatsoever. He says pressure to generate additional billing is due to business costs and overheads, and the fact there are more lawyers than ever competing for money, is all inside the profession. He strongly disagrees that these pressures filter down to clients.

Violence in the Profession is an Issue of Concern

Discussion on this topic was polarized, with fourteen out of the twenty-two lawyers who debated this question confirming that violence is an issue that needs to be addressed. What is interesting to note is all female participants, except one, agree that violence against lawyers is an important issue.

Lawyer B, who received a death threat, reasons that many clients harbour huge grievances. He feels lawyers are always under threat, and although such an issue is important, no one can predict anything in advance, as most acts of violence are unfortunately unexpected. In his words, “if there is going to be an incident, you are not going to necessarily know about it in advance. It can be an innocuous case where some violent incident takes place”. *Lawyer K*, who also has received numerous threats, considers violence against lawyers to be a serious matter, and to which all legal professionals must address their minds - certainly to areas of practice that have a higher degree of risk. *Lawyer S*, who has never encountered threats, and *Lawyer F*, who has received a number of serious threats, including death threats, commend the research project and its significant topic. *Lawyer S* says, although, in the final analysis, it might come down to how each lawyer may categorize his or her own violence, the profession cannot turn its back on violence. *Lawyer J*, a provincial prosecutor who has been the victim of varying threats, strongly agrees violence is an issue that must be investigated, especially since the Internet has introduced a new scope of potentially different threats. Specifically, he feels prosecutors are threatened more than other lawyers, and on a daily basis, considers they face the greater challenge.

Similarly, *Lawyer T* concurs the profession should be concerned about colleagues who are under threat, although *Lawyer O* qualifies violence may be more inclined for

some, but certainly not the majority. Specifically, *Lawyer I*, a family law practitioner who has received death threats, says violence is an area that should be tackled, especially for family law and legal aid lawyers, while *Lawyer G*, also a family law lawyer, agrees that although violence is an important issue for those practitioners who have received threats, it has not been important enough for the profession to investigate the reasons behind the violence. Finally, *Lawyer H* confirms that violence in the profession must be an important issue, notwithstanding how little there is of it, because lawyers have been killed and some lawyers have been very seriously injured. However, he considers there are two aspects to this problem. First, violence against lawyers definitely should be considered an important issue for investigation. Second, a question remains - has violence towards lawyers reached a position where it is systemic? He does not believe so, which may be the prime underlying reason why this specific topic has not been seriously investigated.

Many participants agree violence is a concern that needs to be addressed, but they were unable to concretely propose a viable solution to address the needs of threatened lawyers. For instance, *Lawyer W*, a family law practitioner who has received several serious threats, considers violence in the profession a topic warranting attention, but does not know any alternatives other than reporting matters to the police. Each time she is threatened, she considers whether she is going to report the incident to police, and on many cases over the years, has remained in close contact with them. However, she is unable to proffer concrete propositions on how the profession can formalize protection of lawyers, especially when they are dealing with individual cases. She advises one idea may be to educate lawyers about where to go, or to whom to turn, if they have received, or are continuing to receive threats and violence. Some established system would be

better than none at all. Lawyer U, a non-threatened practitioner, strongly agrees violence is an important issue, but admits she does not know how it can be solved. Moreover, although *Lawyer P* questions why he has never received threats, he also concurs violence should be investigated because even if there is only one threat, it should be addressed by the profession. *Lawyer R*, a criminal defence lawyer who has faced innumerable threats, definitely thinks violence is an issue of concern, certainly from a gender perspective and pertaining to sole practitioners. Sole practitioners have no governing body to rely on or turn to for assistance when violence occurs. She suggests that The Law Society or the Canadian Bar Association must assist, or monitor, or have some system in place to help lawyers under threat.

Then again, other participants generally concur lawyers were a “low risk” group and concerns about lawyers’ safety may be exaggerated. For instance, *Lawyer A*, who was physically assaulted, does not believe that violence as an issue of concern and in fact, is not much of an issue at all. For example, as he explained:

I don’t think there is a huge amount of physical abuse against lawyers over the spanning decades. ...So I don’t think that violence against lawyers is overwhelming. I think that we have these weird people that are very violent, so if you are around those kind of violent people, it could spill over to you. And there are some people who blame their lawyers for their outcomes, no matter what happens.

Accordingly, he does not think that it is dangerous to be a lawyer in Canada and deems occupations such as working in a “7-Eleven” store or driving a taxicab to be more dangerous. And *Lawyer D*, an employment lawyer who has never encountered threats or violence, agrees. As *Lawyer D* explains, “It is not an issue that I have worried about. Most of [my clients] are business people and this is just business and when we succeed, which we always do one way or another...”. However, even he concedes in some

instances, when he is on the defence side acting for a company in a wrongful termination suit, “some of the Plaintiffs can take it personally”. Moreover, he also admits interviewing some witnesses at trial who have been, as *Lawyer D* describes, “very unhappy with me” when he has cross-examined them, and their friends and/or partners glare at him or block his way in the courthouse hallway. But he believes that he can take care of himself because he is fit and a good runner. *Lawyer L* opines, with no disrespect to this research project, that he is dismissive of violence in the profession because he refuses to allow somebody to bother or intimidate him. He confirms it is not the way he conducts his professional and personal life and simply not his nature to even think about it. He just wants to do his job and get on with it.

Lawyers M and E think although violence in the profession is an element of practicing law, and certainly an unwelcome one and a change from conduct in the past, it is not a situation that has become systemic. *Lawyer M* summarizes that violence is part of the business of practicing law, and lawyers should just live with it, while *Lawyer E*, in terms of numbers of violence, claims there is more violence against bus drivers than in the courthouse. *Lawyer E* believes this topic is a non-issue, in spite of receiving some close encounters himself. The vast number of cases, in his opinion, suggests statistically it is well below the average, albeit not revealing who and what is the average. In addition, *Lawyer V*, a provincial prosecutor who has received no threats, stated as a real issue, violence against lawyers is insignificant. And lastly, *Lawyer N*, a female lawyer who has received no threats or violence, assumes practicing law without violence is normal, so she was very surprised to hear that many lawyers have received varying degrees and quantities of threats, including death threats. Nonetheless, after being informed of the statistics, she confirms practitioner violence is not an important issue to her.

And that may be the reason why attacks do occur – that lawyers do not recognize there is a risk, or apathy is prevalent amongst practitioners. To be exact, during interviews with three of the lawyers, although they vehemently denied being at risk at the start of the interviews, about midway into discussions, they were imparting stories about being threatened or intimidated by victims’ families or friends, or clients, or clients’ friends or families, in specific situations. But at the same time they were articulating these stories, their body language was indicating that they did not perceive these specific incidents as anything but trivial.

The Vulnerable Workers

Almost all the participants agree that certain practitioners are more exposed to violence and abuse, while naming, almost universally, family law, criminal defence and litigators as those practitioners more likely to encounter increased threats and/or violence. However, a few lawyers also argued parties might be disinclined to disrespect solicitors as opposed to those barristers who regularly attend court and deal with more emotional participants on a day-to-day basis. For instance, *Lawyer P* proposes solicitors would be low risk because he does not see danger for legal practitioners who represent “ABC Company” and generally remain outside the poignant boundaries. *Lawyer M* believes it is the “unbelievable emotional turmoil” that comes with family law that makes lawyers the conduit for trouble. *Lawyer T* also agrees when families are torn apart and parties may be facing economic devastation, vindictive behaviour may arise. She considers mandatory mediation is the only acceptable method with family law in the anticipation people will hopefully attempt to be reasonable. Then again, *Lawyer F* conveys a story about one of his female clients who was willing to sacrifice her entitlement to one-half of the \$300,000

matrimonial home for legal fees in order for *Lawyer F* to take her estranged husband to court and make him suffer. This type of malevolent behaviour only angers all parties involved and embraces the lawyers in a battling grip. In addition, *Lawyer A* also believes there may be more violence associated with family law, as this area of practice is where lawyers may be more vulnerable. As he explains:

These [clients] can't let their women go. No matter what, they are going to kill the wife and they are going to kill anyone who gets in their way. That is probably the most dangerous group to deal with because there is a whole bunch of men who are bent out of shape on the idea that not only is their wife going to leave them [or] be happy with somebody else [or] just be happy without them. They can't stand that, so they are going to kill them and anybody who gets in their way.

Lawyer C also concurs with this analysis. As *Lawyer C* puts it, “another lawyer in our office did a lot of family law work and I periodically, and as needed, [would] see one of their clients, and they were the most difficult people that I have dealt with”. In fact, *Lawyer O* also assents that family law is the most highly charged and emotional area in which property, money, family break-up and life changes are all taking place. Moreover, *Lawyer W*, a family lawyer who has received serious threats over the years, confides that when it is necessary for her paralegal to swear an affidavit, she uses a pseudonym because she wants to remain untraceable for fears of retaliation from opposing parties.

It could be possible to conceive that barristers may be more prone to violence than solicitors since they attend court on a frequent basis and handle litigious events more than solicitors. At the same time, one may not typically think of commercial law as an especially dangerous occupation. But according to an American survey, collection lawyers are more prone to risk because they are “in the business of taking from the poor to give to the rich, which is very difficult place to be in these days. As people feel there is an increasingly wider disparity between the poor and the rich, they are getting more

militant about narrowing that disparity” (Commercial Law Bulletin, 1996). In this regard, *Lawyer L*, emphasizes that in present day, all lawyers may be more susceptible to some type of abuse because the profession is suffering disrepute in society.

Certainly it seems that criminal defence counsel and family and divorce practitioners may be more situated in the line of fire. As *Lawyer A*, a defence counsel explains, he perceives the public as viewing defence counsel as subverting justice rather than achieving justice. He goes on to say, “a lot of clients blame you for whatever the outcome is or for not doing what they think should happen”, and suggests that the type of client may be the source of violence. For example, in contrast to the type of client that *Lawyer D* represents - the senior executive, the businessperson, who probably would not ever resort to violence in his or her life – *Lawyer A* represents an eclectic assortment of individuals charged with myriad criminal offences. For example, as *Lawyer A* explains:

The class of people you are dealing with are quite violent. I think that mental illness among the clientele is one of the reasons that it is somewhat risky. Also, the people that are supposed to be taking care of these people – they should not be in the criminal justice system a lot of them. ...[basically] they have downloaded these people so they have created a whole mass of people that would not have been around a generation ago.

He also blames the new influx of cheap drugs, and an increase in guns behind some of the violence. Thus, factors such as the ambiguity of client reaction, the uncertainty of mental stability, and the probability of physical addictions may make many clients wholly unpredictable and subject to rash and unprecedented acts of violence, which may force criminal defence counsel to the front lines when dealing with criminal matters. As *Lawyer A* laments, “a lot of clients are nuts. A lot of clients blame you for whatever the outcome is or for not doing what they think should happen”. Compound this with the fact people are unhappy with the criminal justice system, lawyers and certainly the judges as

well, may form the bases for individuals to react in diverse ways. *Lawyer B*, a prosecutor, supports defence counsel and feels that people are misinformed, which results in censure of defence lawyers. Moreover, he adds that people misunderstand that defence counsel are very ethical, normal people who are only doing a job to the best of their ability, which is a very important component in the criminal justice system. He suggests that people will condemn lawyers until they themselves need one. In his words, they realize, “well, thank God, I have somebody like this in my corner. Until it comes to paying the bill at least.”

Media

Of those participants who examined the role of the media in promoting lawyer misconception, fifteen lawyers voiced their concerns about problems inherent in media reports concerning legal issues, while six lawyers reported positive associations with journalistic venues. For example, *Lawyer L* acknowledges optimistic experiences with the media, with no negative feedback whatsoever. Similarly, *Lawyer K*, a provincial prosecutor, also admits she enjoys very good rapport with the media, and finds they have been most fair in summarizing legal cases, not only from the Crown’s standpoint, but also from defence point of view. In fact, in serious cases such as murder that she has conducted over the years, there has been fair coverage and accurate summaries of criminal cases. However, she does clarify that some of her colleagues disagree with her view of the media. In addition, while she discloses there are certain journalists who particularly go after prosecutors and other lawyers, she nonetheless believes the Canadian Bar Association, in general, thinks lawyers are vilified in the papers. Although both *Lawyers O and P* think the media do a good job, *Lawyer O* recognizes they will not

always get their facts right, and *Lawyer P* believes they get caught up too much in selling newspapers. And lastly, *Lawyer H* deems most journalists try to be fair, but occasionally they will go on a crusade.

On the other side of the coin, *Lawyers S, G and U* are convinced the media's prime objective is to sell newspapers. *Lawyer S* has no doubt they report controversy because it sells; *Lawyer G* finds the media to be ill informed; and *Lawyer U* contends that when they do report stories that sell, there are always key points missing, or the facts are taken out of context. In fact, *Lawyer G* admits she actually gets "tears in her eyes" when confronted with a story that has covered all perspectives. These opinions were shared by *Lawyers W and R* who also agree the media never seem to get their facts straight when it involves legal issues

Lawyer M states simply he thinks the media make mistakes. Many stories are not covered in depth and at that point, it is easy for the press to toss out superficial conclusions and confirm whatever prejudices somebody brought to the story. *Lawyer I* recognizes the media report facts inconsistent from what actually transpired in cases with which she is familiar or involved. She often asks herself where the media obtained their facts because the story was reported entirely inconsistent from what really happened, or amazingly, some of the stories were not even true. Therefore, she strongly feels the media is misleading the public about lawyers' true intentions, which is why the general public may harbour erroneous impressions. In sum *Lawyer E* calls the media "cheap shot artists"

Lawyer Q supposes there is a general stigma against lawyers in the first place, so accordingly, the media has a propensity to report the bad news about lawyers. Hence, they will never print what good deeds some lawyers do, such as "community work or

volunteering or working in clinics”. As *Lawyer A* summarizes, “everything that happens virtually in terms of our attitudes towards lawyers, judges, *Charter*, is media driven”. Many of the preconceived public perceptions of lawyers, especially defence lawyers, are derived from media sources. *Lawyer A and B* relay similar ideas when it came to media portrayal of lawyers, especially defence counsel, and believe that the public harbours negative stereotypes of lawyers. *Lawyer B*, in particular, feels the media does a very poor job of reporting cases, which gives the public this misconception about the types of jobs lawyers do, especially defence counsel. As *Lawyer M* says, people have the impression defence counsel are lawyers who will defend anybody for the money, when in fact defence lawyers are just doing their job. As *Lawyer B* summarizes, “the media sort of likes things to be very much black and white, good versus evil, good versus bad. The mantra is always the police good, defence counsel bad, judges weak, and it is a cliché and like a lot of clichés and stereotypes, you know there is not a whole lot of truth to it the way it is portrayed when it is portrayed so simply”. In the end, under Canadian laws, a lawyer is obligated to give an accused a voice and a defence.

Courthouse Security

Most of the participants acknowledge feeling secure upon entering courthouses throughout the Lower Mainland of Vancouver, and agree the sheriffs are doing an excellent job in maintaining and enforcing security. A few other lawyers have absolutely no opinions on court security since they rarely attend court, while at the same time, a very small percentage have some minor criticisms about the seemingly increasing safety measures that have been implemented over the past few years. For example, *Lawyer D* expresses his reluctance to see consistent extensive security in all British Columbia

courthouses, while a couple of other lawyers also admit expanded court security is inevitable but are in no rush to see it reach fruition. *Lawyer D* believes the court system to be the “people’s court” and feeding on fear and danger could be a barrier. He dislikes the idea of courthouses becoming similar to Vancouver Provincial Courthouse, where, in his words, it has “become a fortress and a very unwelcoming place”. He goes on to explain that:

I would hesitate to see the court seen as a fortress, that is, guarded with people with guns or metal detectors. A lot of things set off a metal detector, so people end up getting searched when they come into the courtroom.But I don’t think there is enough experience with risk to turn the courtroom into a fortress. The courts want to be welcoming to people. And it is always intimidating to have people wandering around with guns and so on.

Lawyer D also divulges if someone told him for some particular reason there may be violence in one of his court cases and security was required, it would frighten him because that is not the way he operates as a trial lawyer. He is a conciliator who is always trying to solve the problem, and agrees with *Lawyer G*, who also resents security as she feels it only exacerbates the situation and makes people feel combative rather than nurturing a sense of safety.

Interestingly, the aforesaid perspectives on this subject deviate immensely from criminal defence and family law practitioners. For instance, *Lawyer I*, a family law lawyer, feels the sheriffs maintain consistent vigilance on her because of the sensitive area of law she practices. She finds this extremely comforting because she knows she is at high risk for retaliation and violence because of her legal practice. *Lawyer W*, another family lawyer, finds the sheriffs’ presence inestimable, as many of her cases can explode into violence at any time. She says in specific cases when parties are exhibiting unsafe behaviour, the judge has called in more sheriffs and they “literally come running into the

courtroom”. She advises if counsel let the sheriff’s services know there is a potential problem or phone them in advance when it is determined that there could be a serious situation, files are flagged so security is prepared well in advance on high-risk court cases. On one case she litigated a couple of years ago which was deemed high-risk, three or four of the sheriffs were standing in the courtroom because the judge called them in during a cross-examination of an individual who they felt was a serious risk for violence. Agreeing with other participants in this study that sheriffs are now more visible in the courthouse than in the past, *Lawyer W* also finds solace in the fact that the sheriffs will walk her clients to their cars, or have asked if she needs an escort to her car. *Lawyer R*, who is a criminal defence lawyer, also finds that security is very good, but regrets that once lawyers are outside of the courthouse – on the street, or at their office – they become extremely vulnerable to violence.

Lawyers E, T, M, V and P confirm they are extremely happy with the services the sheriffs are providing and the level of security vigilance and response. *Lawyer E* says if there is a problem, he will go and inform the sheriffs, and they respond efficiently and in “a very quiet way”. However, *Lawyer U* feels that courthouse security is lax. In many Vancouver courtrooms, for example, participants and spectators can walk into a courtroom with no security checks at all. She relates a story about her trip to London, England and advises that in each provincial courthouse, security regulators have stringent security checks in which cameras, purses, bags, etc. are disallowed into courtrooms and only wallets are permitted.

An interesting dichotomy arises between opinions expressed by *Lawyers E and J*. For instance, *Lawyer J* acknowledges security is elevated because of people’s frustration with the system, and as a result, the violence levels have increased. From his numerous

experiences as a provincial prosecutor, he says the courthouse security level is now predicated on the type of community in which it sits, and that armed security depends on the risk the sheriffs feel exists. Alternatively, **Lawyer E** considers the public has respect for our court system and that violence inside or outside the courthouse is not really an issue at all. However, the general consensus from all the participants in this study is that they perceive the public as being extremely discontent with, or uninformed about the legal system, and although some disagree with the level of security, the majority consider that security is required.

However, **Lawyer K** another provincial prosecutor, does not want the security protocols at Vancouver courthouses to follow the guidelines used by American courts. She said that security checks such as those in place at the Vancouver Provincial Courthouse are more time consuming for lawyers and definitely slow down proceedings, causing individuals to be late for first appearances and so forth. She adds consistency of permanent security *modus operandi* in all the courthouses in British Columbia is not necessary, as many courthouses in British Columbia are housed in totally different environments than the Vancouver Provincial Courthouse in the Downtown Eastside. Then again, **Lawyer A** is amazed there are no permanent security protocols at each of the provincial courthouses. For example, although there are extensive security checks and metal detectors at the entrance to the Vancouver Provincial Courthouse, on most occasions (or only on an “as needed” basis), there are no security implementations at the provincial courts in such areas as Surrey or Richmond. In this regard, **Lawyer A** is very surprised Surrey does not have permanent security measures in place considering that Surrey is a high crime area. In this regard, **Lawyer C** asked attendees at a meeting of the

Trial Lawyers' Association about why they do not install security measures and/or metal detectors at all the courthouses, and someone replied that it was too expensive.

And lastly, also agreeing with the efficiency of the sheriff's services, **Lawyer B** relays an interesting scenario regarding security protocols for federal drug trials. In many drug cases, the federal prosecutor will receive a call from the Sheriff's office asking if they have any safety concerns. In other words, the Sheriff's office does a risk assessment of certain high-profile cases and determines what security protocols should be implemented, if any. Moreover, if the federal prosecutor feels that security is needed for the run-of-the-mill marijuana grow operation or drug trafficking cases, they will contact the sheriff and advise that security is needed.

Sidebar

One contentious issue that **Lawyers C, A and M** voluntarily admitted during interviews was the enormous amount of money spent on security for the Air India trial. They all thought it completely ridiculous.

Gender Bias

Although this theme was not discussed in any great detail, a couple of participants did observe that individuals would display unique behaviour when dealing with female lawyers. Further, two other male participants did empathize with women regarding their vulnerability when confronted with violence. Regardless of these few comments, female participants, on the other hand, did not express any awareness of gender specificity when confronting violence and indeed, confirm that it is the area of law in which a lawyer practices that predetermines the propensity for threats. Therefore, consistent with data

analysis reviewed in Chapter 4, the amount of violence as between female and male practitioners is insignificant, and it may be surmised that violence is not gender, but lawyer specific. Even so, the following brief comments are from male practitioners, which must be noted for clarity of this study.

Both *Lawyers A and B* explain that in their experience, they might encounter gender bias in many of their cases. For instance, *Lawyer B* notices that many individuals could not abide being prosecuted by females. In this regard, he clarifies that in cases with gang members and other prosecutions as well where he has worked with a female junior counsel, or co-counselled with some of the senior female prosecutors, the accused, family and friends may be polite to him, but be quite abusive to the female prosecutor. To be exact, in one case, every time the female prosecutor walked down the hallway of the courthouse, family members would mutter, “b--ch” and other obscenities. *Lawyer A* also mentions how his clients often display outrageous chauvinistic attitudes and behaviours toward women, which is reflected in the language they use. For the sake of decency and delicate ears, the derogatory *lingua franca* used by many of *Lawyer A’s* clients will not be repeated in this study.

However, *Lawyer J* feels, in his opinion, that female practitioners are more susceptible to violence and injury because they cannot defend themselves against attackers as well as men. Furthermore, *Lawyer M* says when it turns out that the client is unhappy or miserable, it may well be that defence counsel are in jeopardy. So, he observes that although they are trying to do their duty as lawyers, he considers that if they get less protection than other people, which would be sad, in his opinion, if that were the case, then female defence counsel would be placed in a very uncomfortable environment.

Summary

Although some participants denied violence against lawyers is particularly relevant, they may not understand the potential severity of some actions, and that bravado may underpin their reticence. To conjecture, it is possible many of the participants have become quite accustomed to what the survey defines as “violence and threats” in the profession, to the extent that they did not consider these factors to be risks at all but merely components inherent in their profession. Nevertheless, of utmost importance is the fact many participants consider violence in the legal profession to be worthy of investigation. That being said, in spite of some male practitioners who individually contest allowing violence and threats to interfere with their legal practice and personal life, it cannot be ignored that there are concerned lawyers who consider their lives to be in jeopardy, in the present and future. This is particularly relevant for those lawyers practicing in family law, criminal defence and myriad forms of litigation. Hence, the numerous reasons proffered by all the participants correlate to what theorists have hypothesized may be the reasons behind violence in the legal profession. At first blush, these summaries should be sufficient to commence an initial investigation into modifying some deficiencies inherent in how the legal profession is perceived, operates or conducts its business within a legal system fraught with apprehension and misunderstanding. Furthermore, lawyers’ concerns regarding the role of the media substantiate the Law Society of British Columbia and Canadian Bar Association’s concerns on how the media can play an influencing role in public perception. Moreover, it may be only a matter of time before safety protocols may be standard procedure in all courthouses across British Columbia. Certainly for those criminal defence and family law practitioners, these protocols may be a welcome addition to these precarious areas of law.

In conclusion, with only a few supporters in the legal profession voicing their concerns about violence against lawyers, this issue might continue to remain hidden and unresolved. Perhaps only a catalytic event may catapult the profession into action.

CHAPTER 6: LIMITATIONS

There is no single interpretative truth. For instance, it is important to emphasize that not only will each participant harbour his or her own biases, but also that each opinion is subjective in nature. In addition, each participant may have experienced different situations, which may render his or her opinion unique in its own right. Accordingly, although it is impossible to contextualize the situations as they appear on the Internet Survey, it is feasible to bring in participants' own experiences in each distinctive situation during the Interviews. For instance, with respect to *Lawyer A's* interview, he may have witnessed far more trials and tribulations of litigants than other participants interviewed, simply due to the fact that he is a senior criminal defence lawyer with over twenty-five years of experience. In contrast, *Lawyer D* practices employment law, which may inherently include an entirely different set of goals and obligations. Hence, the subjective interpretation of "risk" varies with each participant. What must be emphatically underscored, for the sake of clarity in this thesis, is that lawyers may intuitively rate their own degree of risk personally encountered quite differently from other legal colleagues. In the end, however, it is anticipated, in spite of possible subjective discrepancies, an overall pattern will emerge regarding the scope of violence and threats against lawyers in British Columbia.

CHAPTER 7: CONCLUSION

This thesis attempts to capture problems that adversely affect a minority of Canada's population – lawyers. Notwithstanding that these problems originate as a by-product of lawyers' obligations in society, the problems themselves have spawned not only media attention and derision, but serious and unpredictable tensions amongst lawyers themselves who fear for their lives and livelihood. Although only approximately 60 percent of lawyers who are practicing members of The Law Society of British Columbia were canvassed, it is evident from the Survey and Interviews that lawyers are being abused, threatened and hurt during the course of their legal duties. And again, in spite of some lawyers conceding certain anomalous behaviour is expected in the daily course of practicing law, the fact that many other lawyers strongly accentuate the importance of violence against lawyers cannot be ignored.

The fact that lawyers in British Columbia report varying degrees and numbers of threats propels contemplation of further studies across Canada. Violence against human beings is unconscionable, and in the Canadian justice system, remedies are in place to censure such behaviour. Therefore, if violence against lawyers across Canada is systemic, then policy makers and regulators must ensure this assemblage of professionals, that constitutes an indispensable position in Canadian society, be protected from further discriminating violence in the future.

Appendix I

SURVEY OF VIOLENCE AND THREATS AGAINST LAWYERS

Please respond to the following questions and specifically questions 3-10 as they relate to your *responsibilities as a legal practitioner*.

Q1 What is your gender?

Male

Female

Q2 What is your age?

30 years or under

31 to 40

41 to 50

51 or older

Q3. What area of law comprises a majority of your legal practice? (check one that is most applicable)

Criminal Defence

Federal Prosecutor

Provincial Prosecutor

Corporate/Commercial/Real Estate

Family/Divorce

Labour/Employment/Human Rights

Will/Estates

General Litigation

Securities

Maritime

Administrative

Aboriginal

Environmental

Other - please specify:

Q4. Year(s) of practice

- | | |
|---|---|
| <input type="checkbox"/> Less than 1 year | <input type="checkbox"/> 1 – 5 years |
| <input type="checkbox"/> 6 – 10 years | <input type="checkbox"/> 11 – 15 years |
| <input type="checkbox"/> 16 – 20 years | <input type="checkbox"/> 21 to 30 years |
| <input type="checkbox"/> 31 years or more | |

Q5 Please indicate below the type(s) of threats and/or acts of violence received as it/they relate(s) specifically to your responsibilities as a legal practitioner.

- Have never received any threatening, inappropriate or physical aggressive actions
- Inappropriate (odd, ominous, troubling) communication (e.g. letter, phone, fax)
- Threatening (explicit) communication (e.g. letter, phone, fax)
- Inappropriate Approach (e.g. followed, face-to-face confrontation or attempts)
- Physical Assault
- Two or more of the above – please specify:

- Other (please specify):

Q6 Number of threats received:

- | | |
|-------------------------------|---|
| <input type="checkbox"/> None | <input type="checkbox"/> One |
| <input type="checkbox"/> Two | <input type="checkbox"/> Three |
| <input type="checkbox"/> Four | <input type="checkbox"/> More than Four |

Q7 Location of the Threats:

- | | |
|---|---|
| <input type="checkbox"/> Your business office | <input type="checkbox"/> Residence |
| <input type="checkbox"/> Courthouse | <input type="checkbox"/> Elsewhere |
| <input type="checkbox"/> Combination of the above | <input type="checkbox"/> Not applicable |

Q8 If you were initially threatened, and subsequently physically assaulted, was the author of the inappropriate or threatening communication the same person or connected in some manner to the person who inappropriately approached or physically assaulted you?

- Yes
- No
- Do not know
- Not applicable

Q9 If you have received a threat or been the victim of a physical assault, was it reported to the police?

- Yes
- No
- Not Applicable

Q10 Please indicate below the answer that best describes the extent to which you have altered the way you conduct your legal business either because you have experienced one or more of these incidents, or, if you have not.

- Not at all
- Somewhat
- A great deal

I am looking for volunteers who are willing to share their ideas, opinions, facts, experiences, insights or rebuttals on this topic. The interview process will take approximately thirty minutes and can take place whenever or wherever it is 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. Please leave your name and phone number below if you agree to an interview. **PLEASE NOTE** that I will be utilizing a random selection of respondents, and therefore not everyone will be contacted. Therefore, I thank you in advance for your valued cooperation.

Name

Address

City

Province

Telephone No.

Email Address

THANK YOU!

I would like to thank you for taking the time to complete this Survey.
Karen Brown

Appendix II

Re: Simon Fraser University Research Project

I am a graduate student at Simon Fraser University conducting research on threats and violence against lawyers. In view of the Resolution passed in December, 2003 by the Ontario Bar Association calling on all levels of government and policing services to develop policies and protocols to protect all lawyers, their families, associates and staff from harm or threat of harm (see CBA website, December 9, 2003 News Release), it is important that a study be conducted to ascertain if violence and threats against lawyers is, or is not, an emerging problem in British Columbia. For example, many lawyers practicing law today encounter abuse and threats from numerous sources as a result of discharging legal responsibilities. On the other hand, other legal practitioners may never face threats in a lifetime of practicing law. Accordingly, I would request that you complete a secure and confidential online Survey comprised of 10 short questions (or go to <http://www.surveymonkey.com/violenceagainstlawyers>). You will not need longer than 3-4 minutes to complete the survey, and confidentiality of all responses and anonymity is assured. Moreover, I am not seeking information that is sensitive or confidential. Your cooperation in completing this Survey will provide invaluable information to this exploratory research project.

You may bring any questions or concerns about this research project to the attention of the researcher's graduate committee as follows:

Professor David MacAlister, M.A., LL.M.
School of Criminology
Simon Fraser University
8888 University Drive, Burnaby, B.C.
V5A 1S6
Telephone: (604) 291-3019
Fax: (604) 291-4140
Email: dmacalis@sfu.ca

Professor Neil Boyd, LL.M.
School of Criminology
Simon Fraser University
8888 University Drive, Burnaby, B.C.
V5A 1S6
Telephone: (604) 291-3324
Email: nboyd@sfu.ca

I appreciate your attention to this request and thank you for your participation in this interesting and worthwhile project.

Yours truly,

Karen Brown
Bachelor of General Studies
Master's Candidate
Simon Fraser University
knbrown@shaw.ca

Appendix III

Re: Simon Fraser University Research Project

I am a graduate student at Simon Fraser University conducting research on threats and violence against lawyers. In view of the Resolution passed in December, 2003 by the Ontario Bar Association calling on all levels of government and policing services to develop policies and protocols to protect all lawyers, their families, associates and staff from harm or threat of harm (see CBA website, December 9, 2003 News Release), it is important that a study be conducted to ascertain if violence and threats against lawyers is, or is not, an emerging problem in British Columbia. For example, many lawyers practicing law today encounter abuse and threats from numerous sources as a result of discharging legal responsibilities. On the other hand, other legal practitioners may never face threats in a lifetime of practicing law. Accordingly, I would request that you complete a secure and confidential online Survey comprised of 10 short questions located at <http://www.surveymonkey.com/violenceagainstlawyers>. This is a secure and confidential website used by researchers and faculty at S.F.U. You will not need longer than 3-4 minutes to complete the survey, and confidentiality of all responses and anonymity is assured. Moreover, I am not seeking information that is sensitive or confidential.

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I appreciate your attention to this request and thank you for your participation. Your cooperation in completing this Survey will provide invaluable information to this exploratory research project.

Yours truly,

Karen Brown
Bachelor of General Studies
Master's Candidate
Simon Fraser University
knbrown@shaw.ca

APPENDIX IV

Thank you to the more than one thousand respondents who have completed the Simon Fraser University survey on violence and threats against lawyers. If you have not done so, kindly complete the survey at <http://www.surveymonkey.com/violenceagainstlawyers>. This research website is a secure and confidential website used by faculty and students at Simon Fraser University.

Thank you again for taking the time to complete this important survey.

Yours truly,

Karen Brown
Simon Fraser University
knbrown@shaw.ca

Appendix V

LAWYERS' CONSENT FORM

Purpose of the Study

The topic of my study is Violence and Abuse Against Lawyers. 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 a paralegal who worked in the legal community for twenty years, I appreciate the urgent need for a research project of this nature. 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 sixty minutes. I can arrange to meet you whenever it is convenient for you.

Confidentiality

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. Confidentiality of all responses will be assured, if requested, as will your right to refuse to answer any of the questions asked during the interview. The answers you give will remain confidential in regard to your identity, if you so request. I will not be seeking or recording any legally sensitive or personal data. I plan to audiotape and take notes during the interviews and upon completion of the research project, all tapes and notes will be destroyed.

Consent

This is to certify that I, _____, hereby agree to participate in a study undertaken by Karen N. Brown, a Master's 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

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