

# Bullying in the Legal Profession: A Study of Illinois Lawyers' Experiences and Recommendations for Change

*Stephanie A. Scharf and Roberta D. Liebenberg*

*Illinois Supreme Court Commission  
on Professionalism*

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Illinois Supreme Court Commission on Professionalism

# Bullying

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A Study of Illinois Lawyers' Experiences  
and Recommendations for Change

**October 2024**

by Stephanie A. Scharf and Roberta D. Liebenberg

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# Letter from the Commission's Executive Director

When I was growing up, many people viewed bullying as endemic to childhood and a relatively harmless rite of passage. Despite the physical and emotional scars from bullying that many people carried into adulthood, the prevailing ethos of the time was encapsulated by the familiar children's rhyme that declared, "Sticks and stones may break my bones, but words will never hurt me." I came to learn the fallacy of this rhyme.

When I was a freshman in high school, I was the target of bullying and ultimately had to transfer schools due to the pervasive racial and sexual harassment I faced. The feeling of powerlessness I experienced spurred my desire to become an attorney, as I wanted to cultivate the skills necessary to advocate not only for myself but for others.

I also became committed to challenging the "words will never hurt me" mindset, along with the indifference to bullying it engendered, if and when I had the opportunity to do so.

That opportunity unexpectedly came when I was crowned Miss America 2003. I made preventing youth violence and bullying my national platform and spoke to more than 100,000 young people about combating peer-to-peer harassment.

Additionally, I collaborated with organizations such as the National Center for Victims of Crime and Fight Crime: Invest in Kids to raise awareness of the detrimental effects of bullying, advocated for the development and implementation of bullying prevention programs and policies in schools, and helped the U.S. Surgeon General and the Health Resources and Services Administration announce its federal youth bullying prevention campaign.

While bullying was once dismissed as an almost intractable nuisance, with no state having an anti-bullying law prior to 1999, by 2015, all 50 states had passed a law requiring school districts or individual schools to develop and implement policies addressing bullying in schools.<sup>1</sup> Due to the persistence of parents, lawyers, community leaders, and advocacy organizations throughout the country, a paradigm shift had occurred in the way bullying in schools was perceived and addressed.

However, after becoming an attorney, I was disheartened to see that many of the bullying behaviors I had told young people were unacceptable in school seemed normalized in the legal profession.

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1. See Cornell, D. G., & Limber, S. P. (2016, February 1). "Do U.S. laws go far enough to prevent bullying at school?" *Monitor on Psychology*, 47(2). <https://www.apa.org/monitor/2016/02/ce-corner> (last accessed on September 19, 2024) (describing the shift in the legislative landscape regarding bullying prevention laws and outlining the reasons for this movement).

Whether it was abusive or demeaning language directed toward colleagues or opposing counsel, jokes or comments containing racist or sexist slurs, attempts to ruin someone's reputation by spreading false information regarding their work ethic or work product, or some judges berating and disrespecting lawyers who appeared before them, bullying often seemed to be either conflated with "setting high standards" or accepted as the necessary price to pay for working in a high stakes, adversarial profession.

However, this abuse of power harms lawyers' careers and well-being, undermines firms' retention and promotion efforts, and erodes the public's confidence in the legal profession. Bullying is also fundamentally irreconcilable with the tenets of justice, equality, and dignity that a lawyer is expected to uphold as "an officer of the legal system and a public citizen having special responsibility for the quality of justice."<sup>2</sup>

As such, the Illinois Supreme Court Commission on Professionalism launched a statewide initiative last year to assess the prevalence and impact of bullying in Illinois' legal profession and to recommend best practices for preventing it. **This study is believed to be one of the first wide-scale research projects conducted in the U.S. on this topic.**

The word "bullying," as opposed to harassment, was chosen for two key reasons. First, workplace anti-harassment laws and policies generally apply only to abusive conduct that is targeted at someone due to a protected characteristic. Therefore, bullying that cannot be proven to be motivated by such a characteristic is usually not illegal under these laws and may not be encompassed by many organizations' anti-harassment policies. The impact of bullying behavior on lawyers, however, may be no less damaging.

Second, because there is now a consensus that children should not be allowed to bully other children in school, it begs the question of why some adults are allowed to bully other adults in the legal profession. While this may be an uncomfortable question, it is one well worth discussing. That a paradigm shift could occur around bullying in schools shows that regardless of how entrenched in the legal profession bullying may seem to be, change is possible.

More than 6,000 Illinois lawyers participated in the survey from which the data in this report is derived. I am grateful for each of these lawyers and the vulnerability and candor they exhibited. Many shared heartbreaking experiences of being demeaned, targeted, and ostracized. Their stories are painful to read yet infuse this Report with a potent sense of urgency.

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2. "Preamble: a Lawyer's Responsibilities," Ill. Sup. Ct. R. Preamble, Para. 2.

Encouragingly, despite the bullying many Illinois lawyers have experienced, they still expressed hope that this initiative will lead to the creation of workplaces where everyone is treated with dignity, civility, and respect. And I want to recognize the Commission on Professionalism's dedicated Commissioners for wholeheartedly embracing and championing this initiative.

The Red Bee Group and authors Stephanie A. Scharf and Roberta D. Liebenberg skillfully and thoughtfully crafted this Survey and Report, which highlights best practices for creating such workplaces and helps illuminate a collective path forward. Their expertise, wisdom, and dedication greatly elevated this project, and it was a privilege to collaborate with them. Ms. Scharf also served as an invaluable thought partner and sounding board, and I sincerely appreciate her vision, integrity, and passion for change.

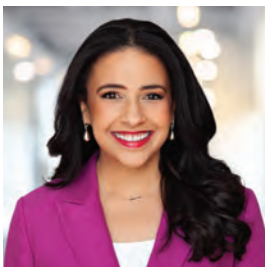
A powerhouse group of respected Illinois lawyers and judges served on this initiative's Advisory Council, and I am thankful for their diverse perspectives, vital feedback, and heartfelt support.

Additionally, I am grateful for the design and editing talents of Laura Bagby, the Commission's Communications Director, and Marin McCall, its Digital and Social Media Manager, and their dedication to this initiative's success.

Finally, this Report would not have been possible without the leadership of the Justices of the Illinois Supreme Court. That they supported the undertaking of this initiative, Survey, and Report reflects a courageous commitment to transparency and dignity.

The Commission commits that the publication of this Report will not be the initiative's conclusion but instead will be the catalyst for future efforts to transform the culture of our profession.

We invite you to join us in this mission.



**Erika N. L. Harold**

Erika N. L. Harold is the Executive Director of the Illinois Supreme Court Commission on Professionalism. Prior to becoming the Commission's Executive Director, Ms. Harold was a litigation attorney, representing clients at the trial and appellate levels in disputes regarding fiduciary and contractual obligations. The Chicago Bar Association awarded Ms. Harold an Earl B. Dickerson Award, which recognizes minority lawyers and judges whose careers elevate the law

as key to justice for all. Ms. Harold was also selected by the Women's Bar Association of Illinois to receive a Vanguard Award, honoring individuals and institutions who have made the law and legal profession more accessible to and reflective of the community at large. Ms. Harold graduated from Harvard Law School, where she funded her legal education through the scholarships and appearance fees she earned as Miss America 2003.





## Foreword by the Authors



We are pleased to introduce this innovative study about bullying in the legal profession, which includes data and comments from thousands of Illinois lawyers about the prevalence and impact of bullying in their workplace, and our recommended best practices for employers, judges, bar associations, and lawyers in all settings to address and prevent bullying in the practice of law.

Bullying by lawyers is a long-known but little-discussed problem, even though it exists in many practice settings. Bullying can negatively impact the quality of a lawyer's day-to-day practice, emotional well-being, and physical health. It impedes an employer's ability to create effective and collegial teams, retain lawyers who do good work, and maintain a culture that is inclusive and supportive of lawyers at all levels. Because bullying makes a lawyer's work experience far more stressful, it can sour lawyers on the practice of law, and even lead some lawyers to leave their jobs or the profession. Inadequate workplace policies, a lack of training at all levels, haphazard oversight by leaders, and other factors lead to bullying becoming widespread and often normalized as a "given" in the practice of law.

Thanks to the Illinois Supreme Court Commission on Professionalism, we now have systematic qualitative and quantitative data concerning bullying and its effects on individual lawyers as well as the profession as a whole. Our comprehensive study includes a statewide Survey of more than 6,000 Illinois lawyers along with 10 representative focus groups. Responses were provided by lawyers in law firms, corporate law departments, government,

public interest and not-for-profit organizations, and the judiciary. Participants were heterogeneous in terms of gender, sexual orientation, race and ethnicity, disability status, age, and type of workplace.

**The research provides much-needed answers to core questions:** When and where does bullying take place? How do lawyers react when they are bullied? What types of support do lawyers who are bullied receive from employers, judges, and others in a position to take action against bullying? What can employers, individuals, judges, bar associations, and others do to reduce the incidents of bullying in the profession?

The research also provides a foundation for our recommended best practices to combat bullying. We are hopeful that all segments of the profession will implement some form of the suggested best practices to identify bullying misconduct, educate lawyers about when and where bullying most frequently occurs, encourage reporting of bullying, and implement concrete actions to deter bullying from the workplace.

This Foreword would not be complete without thanking the many people who contributed to this project. We are first and foremost indebted to Erika Harold, Executive Director of the Illinois Supreme Court Commission on Professionalism. Her extraordinary commitment to the goals of the research, her creative insights and guidance on critical issues, and her ability to bring together a broad array of supporters created a platform that energized our work and made it infinitely more valuable. We also thank Laura Bagby, Communications Director of the Commission, whose careful review of the many documents involved in the research and Report was tremendously helpful.

We are grateful for the guiding influence and support of the Justices of the Illinois Supreme Court, the Illinois Supreme Court Commission on Professionalism, the Commission's Advisory Council for this project, and the many bar associations and individuals who contributed to the project, as detailed in the Acknowledgments.

We very much appreciate the enthusiasm and work contributed by Red Bee Group team members Kelly McNamara Corley, Wendy Shiba, Christine Edwards, and Tom Bender. Their support throughout the process – including their comments and input about the Survey questionnaire, leading focus groups, and commenting on the draft Report – was instrumental to this project and its groundbreaking results. We are very fortunate to have the support of our talented Red Bee colleagues and friends.

Research Associate Megan Bonham, M.A., helped with all aspects of this project, including questionnaire design, oversight of the focus groups, review of Survey data and focus group commentary, and collation of both statistical and focus group data. We thank Megan for her many contributions as well as the high quality of her work. We also thank Elizabeth Dworak, Ph.D., who provided excellent technical and statistical support for the analyses of Survey data.

We are grateful for the opportunity to have conducted this research and to shine a much-needed spotlight on a pernicious problem that harms the careers and well-being of far too many lawyers in Illinois and elsewhere in our country. It is our hope that the solutions, best practices, and recommendations we set forth in this Report will lead the way for many other states, bar associations, and legal employers to put into place the policies and practices needed to combat bullying more effectively. We welcome your feedback and inquiries about how your organization can use this Report to create an enhanced workplace culture where there is no place for bullying.



**Stephanie A. Scharf & Roberta D. Liebenberg**

Stephanie Scharf, J.D., Ph.D., is a Partner at Scharf Banks Marmor LLC, and Roberta D. Liebenberg, J.D., is a Partner at Fine, Kaplan and Black, R.P.C. Ms. Scharf and Ms. Liebenberg are also Principals of The Red Bee Group, LLC, [www.theredbeegroup.com](http://www.theredbeegroup.com), a consulting firm that advises corporations, law firms, and not-for-

profits about growth and innovation. They have used data-based strategies to advise about policy changes, board effectiveness, talent development, and leadership. The Red Bee Group's consulting clients include public and private companies, law firms, not-for-profits, and other organizations.



### **The study**

The Illinois Supreme Court Commission on Professionalism initiated what is believed to be the first study on the prevalence and experiences of bullying in Illinois' legal profession with the goal of identifying best practices for preventing it.



- Survey defined bullying as inappropriate behavior intended to intimidate, humiliate, or control the actions of another person, including verbal, nonverbal, or physical acts
- Focused on a one-year period during 2022 and 2023, as opposed to an attorney's entire career
- Believed to be one of the first wide-scale research projects conducted in the U.S. on this topic
- 6,010 Illinois lawyers participated in the Survey and 48 Illinois lawyers participated in the focus groups

# Snapshot of the key findings

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## *The prevalence*

Although bullying impacts lawyers from all backgrounds, bullying disproportionately impacts female attorneys, attorneys with disabilities, attorneys of color, younger attorneys, and LGBTQ+ attorneys.

### Gender

- **38% of female lawyers** were bullied at work in the past year, compared to **15%** of male lawyers

### Disability

- **38% of lawyers with an impairment that substantially limits a major life activity** were bullied in the past year, compared to **23% of lawyers without that level of disability**

### Race and ethnicity

- In the past year:
  - 36% of Middle Eastern/North African** lawyers were bullied
  - 35% of Black/African American** lawyers were bullied
  - 34% of Hispanic** lawyers were bullied
  - 32% of multiracial** lawyers were bullied
  - 28% of Asian American** lawyers were bullied
  - 23% of white** lawyers were bullied

### Age

- **39% of lawyers aged 25 to 35** were bullied in the past year; lawyers in this age group were more likely than others to report that they had been bullied
- The likelihood of being bullied decreases for each increasingly older group of lawyers
- **12% of lawyers aged 66 to 75** were bullied in the past year

### Sexual orientation

- **29% of gay or lesbian** lawyers were bullied in the past year as compared to **25%** of **heterosexual** lawyers
- **29%** of lawyers who are **gay, lesbian, or bisexual** were the target of verbal bullying related to their sexual orientation, while **3%** of **heterosexual** lawyers were verbally bullied related to their sexual orientation

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## The behavior

The seven most reported types of bullying behavior were:

1. **Verbal intimidation**, such as insults, name-calling, or shouting
2. **Harsh, belittling, or excessive criticism** of work
3. **Demeaning nonverbal** behaviors
4. Imposing **unrealistic work demands**
5. Behind-the-back **malicious rumors**
6. **Improperly taking credit** for work
7. **Not receiving** important work information

Lawyers also reported being subjected to **cyberbullying**, **physical intimidation** (throwing objects, invading space, and stalking), and **physical contact** (inappropriate touching, pushing, or shoving).



“**Bullying compounds itself.** After being bullied, you begin to worry. Then, you have trouble sleeping. You come to work, but you aren’t working at your full capacity.” – *Black female lawyer in a law firm*

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## The bullies

Lawyers reported being bullied at work by lawyers within their organizations, especially by those who hold powerful positions, as well as by lawyers outside their organizations (e.g., opposing counsel) and judges.

- **33%** of lawyers identified the bully as a lawyer external to their organization
- **31%** of lawyers identified the bully as a lawyer within their organization who was in a more senior or high-level position
- **14%** of lawyers said they were most recently bullied by a judge

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## The harm

Lawyers suffered negative professional, emotional, and physical effects from being bullied.

- **54%** of those bullied experienced a negative change in emotional well-being (such as anxiety, loss of self-confidence, and other negative feelings and reactions)
- **39%** of those bullied felt less productive at work
- **20%** of those bullied experienced a decline in physical health
- **18%** of lawyers said they had left a job practicing law because of bullying

Workplaces without appropriate anti-bullying standards, policies, and procedures are more likely to lose female lawyers, LGBTQ+ lawyers, lawyers of color, and lawyers with a disability due to bullying.



“It’ll never stop if there aren’t **meaningful consequences** to bad behavior.” – *White female lawyer in a corporate law department*

## The response

Only 20% of lawyers who were bullied in their workplace reported it to a supervisor, upper-level attorney, or human resources manager.

Common reasons for not reporting bullying behavior include not wanting to be perceived as weak or a “complainer” (34%), fear of the bully’s status (27%), the belief that the employer would not do anything (27%), and concerns regarding loss of work or job (16%).

52% of those who did report the bullying to their employer rated their employer’s response as either “not sufficient” or “totally unsatisfactory.”

- Only **22%** of lawyers said that their employer committed to taking appropriate action against the bully
- Only **18%** of lawyers said that their employer committed to promptly investigating the complaint



# The core recommendations

## Core recommendation 1:

**Legal workplaces should develop, implement, and enforce anti-bullying policies.**

- These policies should clearly define bullying, detail concrete and meaningful remedial actions for engaging in bullying (including mandatory training, reprimand, demotion, termination, or other consequences), outline the process for reporting bullying, require an investigation of the allegations and documentation of the results, and prohibit retaliation for reporting.
- In the weeks following the investigation, a designated individual should meet with the person who made the bullying complaint to see whether they are experiencing any additional forms of bullying, including retaliation.
- Existing anti-harassment policies that only prohibit harassment based on a protected class are insufficient.

## Core recommendation 2:

**Legal workplaces should conduct training specific to their organization's anti-bullying policies and procedures to equip lawyers with tools to respond, whether they are being targeted by bullying or witnessing it.**

Law schools should also offer educational programs and training to law students on bullying prevention. Through such programs, law students can learn effective strategies for preventing and responding to bullying, whether it takes place in law school or legal workplaces.

## Core recommendation 3:

**Courts should enforce anti-bullying standards in courtrooms and litigation activities.**

- Courts should adopt a standing order regarding bullying and incivility in legal proceedings.
  - The standing order should identify acceptable and unacceptable behavior and actions judges will take when they witness or learn of bullying in the courtroom or in other aspects of the litigation process.
  - Judges should continue to receive training regarding their power and tools to address incivility, bullying, and harassment.



- The Illinois Attorney Registration and Disciplinary Commission should continue to review the bullying complaints it receives and, when such complaints show bullying behavior that violates the Illinois Rules of Professional Conduct, recommend appropriate remediation or disciplinary measures to send a strong message against the bullying.

#### **Core recommendation 4:**

**Bar associations should use their resources and reach to advance programs that educate members on the prevalence and impact of bullying in the legal profession.**

This includes developing toolkits and model anti-bullying policies for members to use within their workplaces; sponsoring lawyer-to-lawyer mentoring programs that can provide support, strategies, and a safe place for lawyers who have been bullied; sponsoring CLEs about bullying; and using their websites, newsletters, and publications to write about bullying prevention.

#### **Core recommendation 5:**

**Lawyers being bullied should respond in the way they feel best safeguards their rights, well-being, and career.**

- There is no one-size-fits-all approach. Lawyers may choose to challenge the bully's behavior in real time, walk away, ignore the behavior, or report it later.
- Depending on the circumstances, targets of bullying should document it and then follow any reporting procedures within their organization. If no such procedures exist, they should report the bullying to a supervisor or leader within their organization.
- Lawyers who are bullied should also enlist friends, mentors, and sponsors within and outside their organizations for support and additional guidance.

While there are steps that individual lawyers can take when they are being bullied, the ultimate responsibility for preventing bullying rests not on those who are bullied but rather on those with the power to set and enforce policies in workplaces, courtrooms, and conference rooms across Illinois.

## **Introduction:**

What is bullying and why  
this research matters

Bullying is fundamentally the improper exercise of power by one person over another and takes the form of aggressive acts or comments meant to intimidate, humiliate, embarrass, or control another person. Bullying may involve verbal aggression, nonverbal actions, acts of exclusion, harsh working conditions, physical harm, stalking, or other aggressive actions. It may take place in person or online. Bullying may involve repeated acts by one aggressor against the same person and/or against multiple people.



When asked, some lawyers say they have never been bullied or witnessed bullying at work. A substantial number of lawyers, however, answer otherwise, with descriptions of their personal experiences of being bullied and seeing other lawyers bullied as well in offices, courtrooms, depositions, group meetings, and other places where lawyers work.

Bullying is not simply incivility. Incivility is rude or disrespectful behavior. In contrast, bullying typically involves a power imbalance with intentional and often unrelenting aggression, intimidation, or humiliation. Bullying can target a person's gender, sexual orientation, race, or other personal characteristics. Gender-based bullying, for example, may take the form of sexual harassment, but bullying behaviors overall are much broader, and a bullying victim lacks formal legal mechanisms for redress like those available for sexual harassment victims.<sup>3</sup>

Bullying affects a lawyer's career, the quality of their work, their emotional well-being, and physical health. It can lead to stress, anxiety, and depression. Bullying can create a workplace culture where individuals are threatened, demeaned, and belittled. Lawyers who are bullied may be afraid to come forward, and employers may not be certain of how to address bullying misconduct.

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<sup>3</sup> Sexual harassment continues to be a major issue in the legal profession. A 2020 national study details the types of sexual harassment that occur on a regular basis. While expressly not a representative sample of the legal profession, the study nonetheless shows a large percentage of lawyers with direct experiences of sexual harassment, and it calls the system for addressing sexual harassment in the legal profession "still broken." See "Still Broken: Sexual Harassment and Misconduct in the Legal Profession," Women Lawyers on Guard (2020), available at <https://womenlawyersonguard.org/wp-content/uploads/2020/03/Still-Broken-Full-Report-FINAL-3-14-2020.pdf> (hereinafter "Still Broken").

It is not only individual lawyers who suffer from being bullied. Bullying tolerated by the culture of a workplace can have many negative effects on a business such as lower productivity, harm to the reputation of the company or firm, loss of skilled lawyers, difficulty hiring lawyers, a culture based on dislike if not fear, along with a lack of commitment by employees who perceive their leadership does not take bullying seriously.

The high-pressure business goals that may define a law firm, company, or organization in tandem with practices and behaviors that achieve those goals can create an environment where bullying takes hold.<sup>4</sup> Ultimately, there is the question of what culture a law firm, law department, not-for-profit, government agency, or other entity has, what culture it wants, and how it will get there.<sup>5</sup>

There are currently few sources of support for lawyers who are bullied. There is no profession-wide set of standards in the legal profession about what bullying entails. There is no database of systematic information about the impact of bullying. Many employers lack recommended policies and practices for how to address bullying or fail to pursue reports of bullying. While employers typically indicate general opposition to bullying, they usually do not have written anti-bullying policies. Many lawyers accept that bullying “goes along with practicing law.”

Bar associations and courts also generally lack specific anti-bullying standards or systematic programs that teach lawyers how to respond to bullying when they see or experience it. Court rules around professional misconduct typically focus on misconduct vis-à-vis clients and not lawyer-to-lawyer behavior.

The lack of effective policies and resources puts the large majority of lawyers who have been bullied in a lonely and unsupported position when faced with being bullied, when dealing with the aftermath of bullying in their workplace, and when grappling with the impact of bullying on their careers and personal well-being. Bullying sours lawyers on the practice of law, and it can drive lawyers to leave the practice of law.

Perhaps the greatest obstacle to creating policies and programs against bullying is the lack of systematic data for understanding the types of bullying conduct, when and where it occurs, who is likely to be bullied, and the impact of bullying on the lawyers targeted by such behavior. Data is critical to developing effective policies, initiatives, and best practices to address bullying in the workplace and the legal profession.

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4. See, e.g., M. Omari and M. Paull, “Shut up and bill”: Workplace bullying challenges for the legal profession.” *International Journal of the Legal Profession*, v. 20/Issue 2 at 1. January 30 2-14. Available at <https://doi.org/10.1080/09695958.2013.874350>.

5. See “Bullying in Law Firms: Hard to Define, Easy to Spot.” Highlights of the American Bar Association Commission on Lawyer Assistance Programs, v. 10, no. 2, Summer 2007. Highlights, Summer 2007 ([americanbar.org](http://americanbar.org)) (discussing law firms but with commentary applicable to all settings in which lawyers practice).

While there have been studies of bullying in the general workplace,<sup>6</sup> there have been few studies specific to bullying in the law in U.S. settings.<sup>7</sup> We are hopeful that this in-depth, multi-faceted study will lead to similar studies in other states. Importantly, this research provides a platform for solutions and best practices that reflect the many different segments of the profession.

In the following chapters, we describe how we designed and conducted the research, the core findings about bullying in the legal profession in Illinois, and our recommended best practices to respond to and prevent bullying wherever Illinois lawyers practice law.

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6. For example, Gary Namie and colleagues at the Workplace Bullying Institute have presented a series of annual reports about bullying at work. See, e.g., G. Banuam, "2021 WBI U.S. Workplace Bullying Survey report, March 2021," available at (PDF) 2021 WBI U.S. Workplace Bullying Survey Report (researchgate.net). Dr. Namie reports that 39% of employed adult Americans have directly experienced abusive conduct at work (*id.* at 6), and that those working remotely are bullied at a higher rate, with various forms of humiliation, both verbal and nonverbal (*id.* at 9). He also notes that organizational factors explain a great deal of workplace toxicity.

7. There have been a handful of studies in the U.S. that touch on bullying in the legal profession, but these have been limited by such factors as the size of the study samples and the inability to do multi-variable analyses; the focus on sexual harassment as the core issue; and other factors. See, e.g., K. Pender, "Us too? Bullying and sexual harassment in the legal profession." International Bar Association, May 15, 2019. Available at apo-nid248266.pdf; L. Stiller Rikleen, "Survey of Workplace Conduct and Behaviors in Law Firms." (Women's Bar Association of Massachusetts, 2018) (hereinafter "Survey of Workplace Conduct"); see also Still Broken, *supra* n.1.



## **Methods**

for assessing the nature and extent of  
bullying in the legal profession

For this broad-based study of bullying in the legal profession, we sought an extensive array of information from practicing Illinois lawyers with an emphasis on understanding the scope of the problem and recommending solutions and best practices for change.

As an initial step, we held informal discussions with practicing lawyers at many levels across a range of demographic characteristics about the research topic. We developed a definition for bullying of lawyers at work through a review of (a) research reports about workplace bullying generally and bullying in the legal profession, (b) anecdotal studies and commentary about bullying at work across different professions, and (c) comments by the project's Advisory Council.

On that basis, we provided this general definition of “bullying” to Survey respondents and focus group participants:



**“Bullying is inappropriate behavior** intended to intimidate, humiliate, or control the actions of another person. Bullying may take many forms including verbal, nonverbal, or physical acts.”

## ***Survey methodology***

We designed a statewide Survey to systematically gather data about bullying at work from a representative sample of all actively practicing lawyers based in Illinois, across many work settings, practice areas, and demographics.

The first part of the Survey work was to create a questionnaire that covered a range of information about bullying in the legal profession, with a special emphasis on bullying over the past year so that information was current and more reliably accurate.<sup>8</sup>

We asked lawyers whether they had personally experienced bullying while performing their job or engaged in bullying, the types of bullying they had experienced, the short-term and long-term consequences to the bully and those who are bullied, and ideas for what can be done to eliminate bullying behavior in the practice of law. We deliberately designed the Survey to include opportunities for respondents to give their personal experiences and suggestions for eliminating bullying.

Before fielding the Survey, we pretested it on individuals who differed in gender, race and ethnicity, age, disability status, workplace, and locale. Based on the pretest, we made final adjustments to the questionnaire.

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<sup>8</sup> Asking about a recent specific time period is more likely to provide a reliable response that can be extrapolated to longer time periods, compared to asking about bullying experiences over a longer time period, where memory is less likely to be accurate.





On September 27, 2023, the Survey was emailed to 55,295 lawyers, all of whom were registered as active in 2023 with the Illinois Attorney Registration and Disciplinary Commission (“ARDC”) and were based in Illinois. The Survey was closed on October 12, 2023. A total of 6,010 lawyers who were actively practicing law in Illinois responded to the Survey.

As part of the Survey design, individual respondents were anonymized with no identification by name of any Survey respondent or their employer, or the name of any person described in questions about bullying.

The demographic profile of lawyers who took the Survey approximates the age and gender distributions (which are tracked by the ARDC) of the population of lawyers who practice in Illinois. We thus have confidence that the Survey results are generally representative of the population of practicing Illinois lawyers regarding bullying in the legal profession.

In the following sections, we present the results of the Survey in tables and other forms of graphics, typically using percentage data to describe the responses of groups and subgroups of lawyers. Percentage results are rounded to whole numbers and occasionally rounding results in group percentages do not total exactly 100%.

In addition, we applied regression analyses to various data sets, and report the observed statistical significance of group results as appropriate. Further information about the Survey methodology and the demographic breakdown of Survey respondents is contained in the Appendix.



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## ***Focus group methodology***

We scheduled statewide focus groups held on Zoom to home in on personal and group experiences with bullying, and recommendations for solutions to eliminate bullying in the legal profession. Participants were recruited through outreach to a range of associations, including the initiative's Advisory Council, Illinois State Bar Association, Chicago Bar Association, Women's Bar Association of Illinois, Black Women Lawyers' Association of Greater Chicago, Cook County Bar Association, Asian American Bar Association of Greater Chicago, South Asian Bar Association of Chicago, HLAI – Serving the Hispanic Lawyers of Illinois, and LAGBAC, Chicago's LGBTQ+ Bar Association.

We held 10 focus groups from January through March of 2024. The focus groups were designed to elicit information from multiple perspectives, with a range of participants as defined by race and ethnicity, gender identity, sexual orientation, age and experience, disability, type of employment, and location of employment.

Each group was led by a focus group leader, who followed a prescribed protocol that was designed to encourage a range of ideas and experiences from all those attending. Each focus group lasted between 60 and 90 minutes. A total of 48 lawyers and judges participated in focus groups.

Discussions in the focus groups covered many different personal experiences as well as suggestions for addressing and preventing bullying.

This Report presents the results of the Survey and focus groups in tandem and around the key topics that are the focus of the research.

## **Lawyers experience bullying** at work in multiple ways



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## *Many lawyers are bullied in the places they work*

The Survey provided robust information about bullying at work. Among all active Illinois-based lawyers, 24% reported that over the past year, they were personally bullied at work, with 13% experiencing bullying on multiple occasions.

In other words, under the definition of bullying that was used in the Survey, almost a quarter of lawyers reported that in the past year, they had been the target of inappropriate behavior intended to intimidate, humiliate, or control their actions, and the bullying was either verbal, nonverbal, or physical.

**Extrapolating this result to the more than 55,000 active Illinois-based lawyers means that over 13,000 lawyers in Illinois experienced some form of bullying during a one-year period.**

Not only did almost a quarter of lawyers personally experience bullying at work, but 18% of lawyers reported that they observed lawyers being bullied at work in the past year.

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## *The types of bullying that occur at work*

The 24% of Illinois lawyers who were bullied at work in the past year encountered many different types of bullying.

Within this group, a large percentage reported verbal bullying through insults, name-calling, shouting, and other disrespectful speech (66%); harsh, belittling, or excessive criticism of the lawyer's work (59%); or demeaning nonverbal behaviors, such as eye-rolling, staring, and finger pointing (59%). Over half of bullied lawyers reported that they were expected to meet unreasonable work deadlines or work demands (56%), a form of bullying that demands an onerous amount of work in a timeframe that can also set lawyers up to fail.

Some of the lawyers bullied in the past year experienced forms of exclusionary bullying such as behind-the-back false accusations or malicious rumors (45%); stealing credit for the lawyer's work (43%); being excluded from important work information or important work meetings (40%); or being excluded from employer-sponsored social events (16%).

A number of bullied lawyers also experienced cyberbullying that was either directed personally at the lawyer or through social media posts (17%), experienced physical intimidation (14%), and even experienced physical attack (5%).

Being bullied to say or do something unethical or improper in the past year was reported by a substantial number of lawyers (26%) who reported that they had been bullied at work in the past year.

The table below summarizes the types and frequency of bullying among the 24% of Survey respondents who were bullied in the past year. Each of these types of bullying can target a lawyer multiple times in the course of a year, and it is not rare for lawyers to experience various types of bullying on a monthly, weekly, or even daily basis. Moreover, the various types of bullying are not mutually exclusive, and the same lawyer may be subject to multiple forms of bullying.

<b>Type of bullying described by all lawyers bullied in the past year</b>	<b>Once or more often in the past year</b>	<b>Once in the past year</b>	<b>Several times in the past year</b>	<b>Monthly</b>	<b>Weekly</b>	<b>Daily or almost daily</b>
Verbal intimidation, such as disrespectful speech, insults, name-calling, shouting	66%	15%	34%	8%	5%	4%
Harsh, belittling, or excessive criticism of you or your work	59%	12%	31%	8%	4%	5%
Demeaning nonverbal behaviors, such as eye-rolling, finger-pointing, staring	59%	10%	30%	9%	6%	4%
Routinely being subject to unrealistic deadlines or other unreasonable work demands	56%	6%	24%	8%	9%	9%
Behind-the-back false accusations, malicious rumors	45%	12%	22%	4%	3%	3%
Someone improperly taking credit for your work	43%	11%	21%	5%	3%	3%
Not receiving work-related information, not being invited to important work meetings	40%	6%	21%	6%	4%	3%
Routinely receiving assignments well below your capabilities	34%	4%	14%	5%	5%	5%
Was asked to say or do something that was unethical or improper	26%	9%	11%	3%	1%	1%

Continued on the next page.

Type of bullying described by all lawyers bullied in the past year	Once or more often in the past year	Once in the past year	Several times in the past year	Monthly	Weekly	Daily or almost daily
Cyberbullying, such as inappropriate text messages, instant messages, or social media posts	17%	4%	8%	3%	1%	1%
Being excluded from employer-sponsored social events	16%	4%	8%	2%	1%	1%
Physical intimidation, such as hovering, invading personal space, throwing objects, stalking	14%	4%	7%	1%	1%	1%
Physical contact, such as inappropriate touching, pushing, or shoving	5%	2%	2%	1%	0%	1%

While there is a wide range of bullying behaviors, certain forms of bullying are more frequent. The seven most common types of bullying as reported both by those who are bullied as well as those who bully others are (1) verbal intimidation, such as insults, name-calling, or shouting; (2) harsh, belittling, or excessive criticism of work; (3) demeaning nonverbal behaviors; (4) imposing unrealistic work demands; (5) behind-the-back malicious rumors; (6) improperly taking credit for work; and (7) not receiving important work information.

Type of bullying	Rank of seven most commonly experienced types of bullying in the past year (reported by those bullied)	Rank of seven most commonly inflicted types of bullying in the past year (reported by those doing the bullying)
Verbal intimidation, such as disrespectful speech, insults, name-calling, shouting	1	3
Harsh, belittling, or excessive criticism of you or your work	2	4
Demeaning nonverbal behaviors, such as eye-rolling, finger-pointing, staring	3	1
Routinely being subject to unrealistic deadlines or other unreasonable work demands	4	2
Behind-the-back false accusations, malicious rumors	5	7
Someone improperly taking credit for your work	6	5
Not receiving work-related information, not being invited to important work meetings	7	6



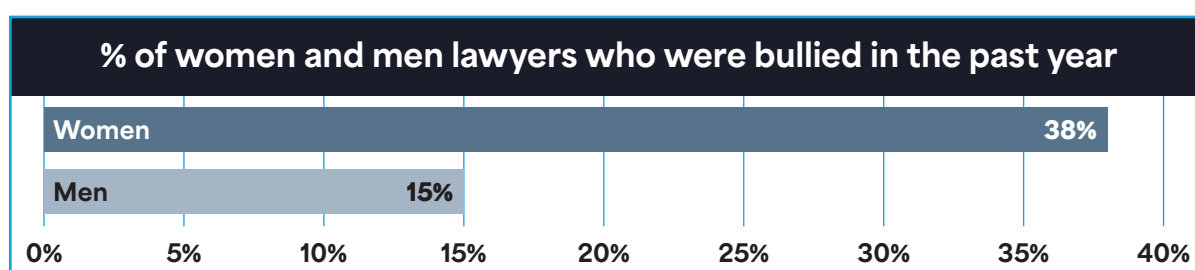
Overall, these data convincingly show that thousands of Illinois lawyers are bullied during a year. Moreover, these data do not reflect the frequent reports made through open-ended responses to Survey questions and in the focus group discussions about bullying that took place over the course of a lawyer's career, even if not in the past year, with a highly negative impact.

## ***Gender, sexual orientation, race, and other personal characteristics increase the chances of being bullied at work***

Bullying is not equally experienced by all lawyers. Some lawyers – in particular women and lawyers of color – were bullied significantly more often than others.

### **Gender identity**

Thirty-eight percent of female lawyers compared to 15% of male lawyers ( $p < .001$ )<sup>9</sup> reported that they were bullied at work in the past year.<sup>10</sup>

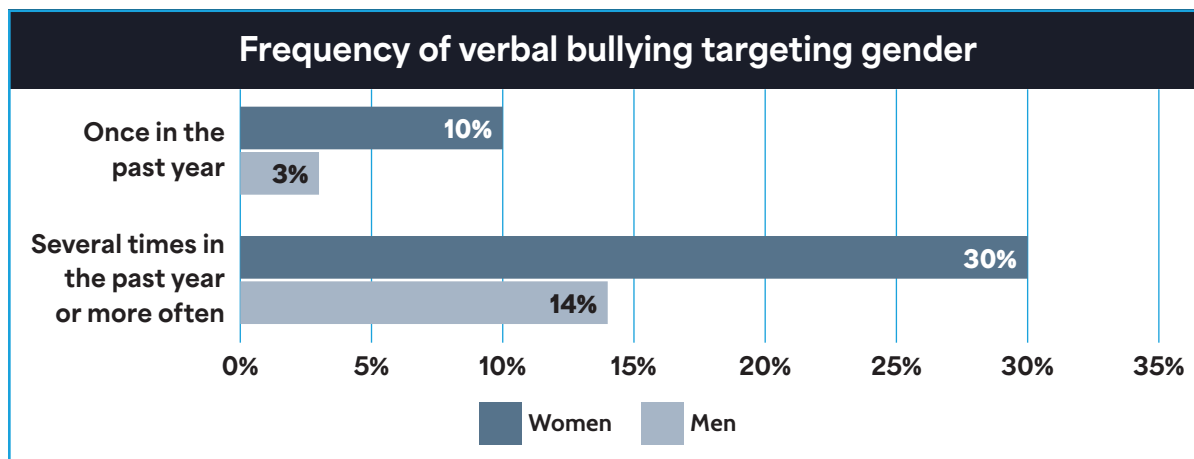


9. We often report the “p” or probability values of statistical analyses to assess group differences to show that the observed differences are highly unlikely to be by chance.

10. The number of persons who identified as nonbinary and other gender identities was too small to include in these analyses.



Moreover, of those women who were bullied in the past year, 40% experienced verbal bullying once or several times specific to being female – such as negative innuendos, insults, jokes, or even threats related to their gender – compared to 17% of men who experienced verbal bullying about being male.



We also analyzed whether there was an intersectionality effect of race and ethnicity and gender on the frequency of being bullied. We found that women of color and white women were about equally as likely to be bullied in the past year (39% compared to 38%, respectively) and that both groups of women were more likely to be bullied than men of color (25%) and white men (14%).

We learned more about how women experience bullying from the many comments made in Survey responses and focus groups.



**“I have been insulted, yelled at, unfairly criticized, had my personal space invaded, and threatened in offices and courtrooms for nearly 30 years.”**

*– White female lawyer in a law firm*

**“Men still push women around and expect them to handle more administrative tasks. I see it on a regular basis in something as simple as preparing a written order, i.e., an administrative task.”**

*– White female lawyer in a law firm*

**“I’ve found family law to be particularly uncivil, and many of the male attorneys are dismissive and aggressive toward women attorneys.”**

*– Black female lawyer in a law firm*



**“Bullying younger and female attorneys is a frequent tactic in litigation. I’ve been in litigation for 15+ years, and it happens all the time.”**

*– White female lawyer in a law firm*

**“I was kissed by an attorney who was not employed by us, and I had to push him off me twice. This happened in the empty courtroom.”**

*– Woman of color in the judiciary*

The types of bullying reported most often by women include:

**Verbal:**

- From shouting, insults, and being called demeaning names such as “Sweetheart,” “Honey,” and “Cutie,” to more extreme name-calling such as “f\*\*\*ing c\*\*t.”

**Physical:**

- Multiple women had their personal space invaded, such as when a 300-pound, 6’ 6” male attorney got in the face of a petite woman.
- In a closed conference room, the male opposing counsel blocked the door and yelled expletives at a female attorney. She said, “I felt like I had nowhere to go.”

**Sexual harassment:**

- A male opposing counsel told one woman lawyer, “Oh, look at all the beautiful women. If I were in a bar, I’d be sure to get laid.”
- From a woman lawyer working in the judicial system: “The opposing counsel lifted up my dress in the courtroom.”

**Childbearing and motherhood:**



**“I left two prior firms due to overt gender discrimination, such as comments like ‘Vacation? You were just on maternity leave,’ and ‘She should have stayed home and had kids.’”**

*– White female lawyer in a law firm*



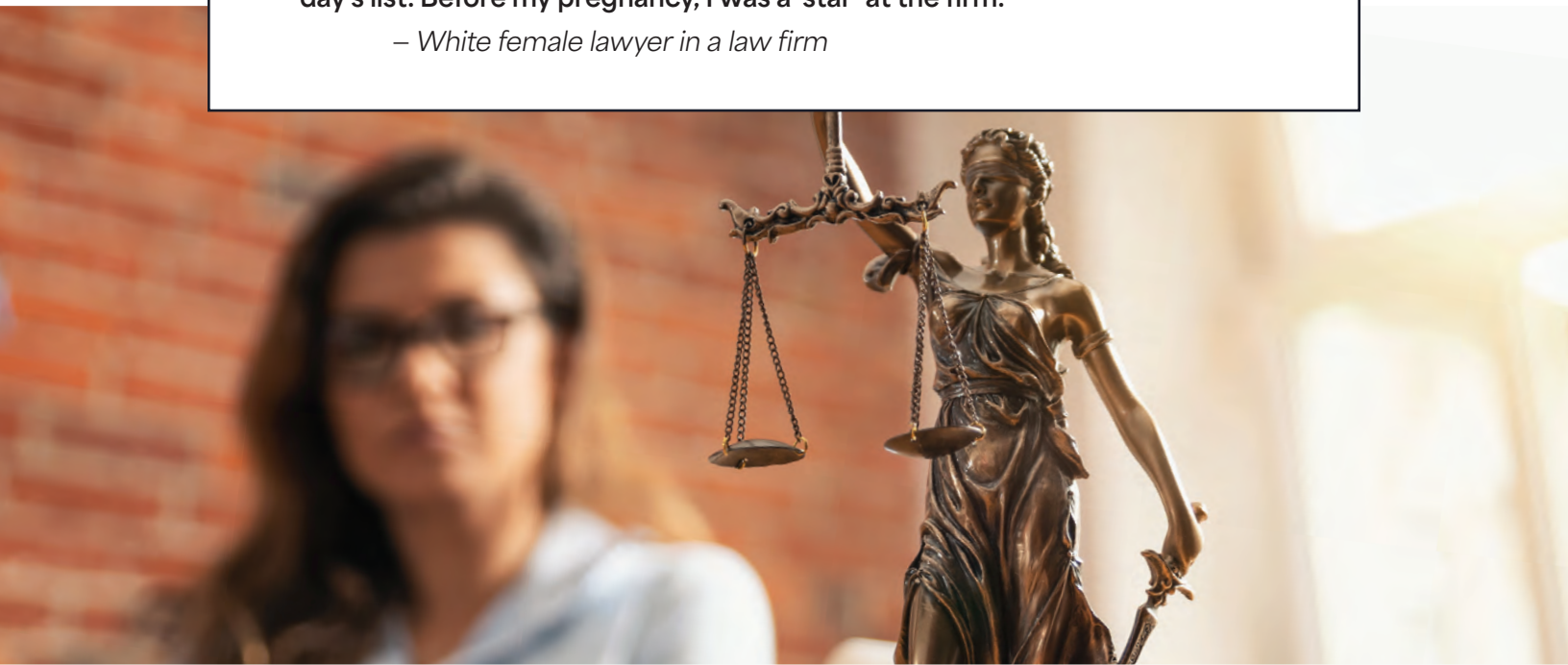


“During and after my first pregnancy, I was sidelined on projects by my General Counsel and was subject to a lot of ‘You probably need to be with your kid’ and ‘Must be tired because of the new baby.’ He would schedule after-hours calls when he knew I didn’t have childcare at that time. He ‘mommy tracked’ me.”

– Hispanic female lawyer in a corporate law department

“I was pregnant and was harassed on a daily basis up to the day before my due date with excessive work requests and documenting all of my cases. I would receive 6:00 a.m. emails every day from one of the partners listing all the extra tasks I had to complete that day and criticizing me for the prior day’s list. Before my pregnancy, I was a ‘star’ at the firm.”

– White female lawyer in a law firm



### Sexual orientation

About the same percentage of gay or lesbian lawyers (29%) as heterosexual lawyers (25%) were bullied in the past year, although a greater percentage of bisexual lawyers were bullied (46%).

Relatively few heterosexual lawyers (3%) were verbally bullied with negative innuendos, insults, jokes, or threats *related specifically to their sexual orientation*. In contrast, 29% of lawyers who are gay, lesbian, or bisexual were the target of verbal bullying related to their sexual orientation ( $p < .0001$ ).



**“The Chief Executive Officer regularly threatened, intimidated, and belittled me generally, in private and in person. He also did the same specifically based on my sexual orientation but did that only in private.”**

*– White gay male lawyer in government*

**“Misgendering and deadnaming are a regular occurrence.”**

*– White lesbian lawyer in solo practice*

### **Race and ethnicity**

Among white lawyers, 23% experienced bullying in the past year, anywhere from rarely to often. Lawyers of color were more likely to have experienced bullying than white lawyers and more likely to have been bullied multiple times.

It is noteworthy that a higher percentage of lawyers in every racial or ethnic group reported they were bullied in the past year than white lawyers:<sup>11</sup>

- **36% of Middle Eastern/North African lawyers were bullied one or more times**
- **35% of Black lawyers were bullied one or more times**
- **34% of Hispanic lawyers were bullied one or more times**
- **32% of multiracial lawyers were bullied one or more times**
- **28% of Asian American lawyers were bullied one or more times**

A regression analysis comparing the impact of race and ethnicity on the frequency of bullying showed a significantly increased chance that lawyers of color will experience a higher frequency of bullying than white lawyers ( $p < .0001$ ).<sup>12</sup>

Apart from a general array of bullying experiences, we analyzed the extent to which lawyers in various ethnic or racial groups were more likely to be verbally bullied via racial and ethnic insults, jokes, or threats related to their race or ethnicity.

<sup>11</sup> There were too few lawyers who responded to the Survey and identified as American Indian/Alaska Native or Native Hawaiian/Pacific Islander to report reliable data about the frequency of bullying in those groups.

<sup>12</sup> We recognize that people of color are not uniform in their experiences and ideally we would want to analyze each racial and ethnic group separately. But certain categories of race and ethnicity were not large enough to generate reliable group estimates or comparisons. Therefore, for certain analyses, we have grouped lawyers who are not white so there is a sufficient number of people to reach reliable statistical conclusions about the frequency of bullying for lawyers of color in a given year.

The data show that lawyers of color were significantly more likely ( $p < .0001$ ) to report being the target of negative innuendos, insults, jokes, or threats *related specifically to their race or ethnicity* than white lawyers.

Seven percent of white lawyers who reported being bullied in the past year were the target of race-based verbal bullying. In contrast, of the lawyers of color who reported being bullied in the past year, 24% were the target of verbal bullying specifically related to their race or ethnicity.

Bullying was experienced by many lawyers of color, often as blatant racism, as shown by just a few of the many comments we received:



**“I can write a book about it [workplace bullying].”**

– Asian American female lawyer in solo practice

**“I’ve worked in several legal environments that are toxic. The people are manipulative and very competitive. Biases and stereotypes are prevalent and racial cliques are dominant. Minorities struggle to advance and find mentorship that can help them.”**

– Black female lawyer

**“In an employment evaluation, I was described as an ‘angry Black man’ who ‘didn’t get along with colleagues or clients.’”**

– Black male lawyer in government

**“On multiple occasions, I’ve been told, ‘You’re very articulate. You have no accent.’”**

– Asian American female lawyer in government

**“I’ve been asked, ‘What are you? You don’t look Hispanic.’”**

– Asian American female lawyer in solo practice

We emphasize that data showing differences in the frequency of bullying by gender and race and ethnicity focus on the *likelihood* of being bullied, not that a given racial or ethnic group is exempt from being bullied. Indeed, a review of responses to the Survey shows that all lawyers can be targets for bullying.



**“My senior partner treated me in a pathologically harsh manner.”**

– *White male lawyer in a law firm*

**“I would estimate that I have encountered bullying from 80-90% of attorneys, judges, and court staff I have interacted with. It seems inescapable in this profession.”**

– *White male lawyer in a law firm*

**“My firm has a clique of a few people where only they have closed-door meetings and don’t tell me or other employees what’s happening. No one tells me anything.”**

– *White male lawyer in a law firm*

**“At my current job, the partner that I report to appears incapable of acknowledging his role in creating the toxic workplace problems that exist. On a daily basis, this leads to increased staff stress, anxiety, and uncertainty... Staff is ignored, badgered, lied to regularly, and blamed for mistakes caused by the partner.”**

– *White male lawyer in a law firm*

## Disability

Lawyers with an impairment that substantially limits a major life activity<sup>13</sup> report a greater frequency of bullying (38%) than lawyers without that level of disability (23%).



**“I have been treated horribly because of my disability.”**

– *Multiracial female lawyer in a law firm*

**“My partner took advantage of my disability and tried to take over my practice without compensation.”**

– *White male lawyer*

**“I left the last two Legal Aid agencies because of bullying and lack of ADA accommodations.”**

– *White female lawyer in legal aid*

<sup>13</sup>. The definition of disability used in the Survey.

## Age

Age is also a factor in how often lawyers were bullied in the past year. Younger lawyers (age 25 to 35) were most likely to report that they have been impacted by bullying and were more likely to have experienced harsh and excessive criticism of their work, higher levels of demeaning nonverbal behaviors, having another lawyer take credit for their work, receiving work assignments well below their capabilities, routinely being subject to unrealistic deadlines or unreasonable work demands, not receiving work-related information or being invited to important work meetings, and even bullying by physical intimidation.

The likelihood of being bullied is lower for each increasingly older cohort. By the time a lawyer reaches their mid-sixties, only 12% of lawyers report they were bullied in the past year.

% of practicing lawyers who were bullied in the past year						
Age	25-35	36-45	46-55	56-65	66-75	76-85
%	39%	33%	29%	19%	12%	5%

Here is a sample of the events reported to us by a myriad of younger attorneys:



**“Yes, there is constant bullying by older attorneys that want to put younger attorneys in their place. An older attorney will constantly make a younger attorney feel like they do not know the law.”**

*– Black female lawyer in government*

**“Aggressive, mostly older lawyers intimidate younger/newer ones and use it as a legal tactic.”**

*– Multiracial male lawyer*

**“Older attorneys think they have the right to bully younger attorneys just because they’ve been around longer. It doesn’t seem to matter to them if their position is wrong or not supported by the law or the facts.”**

*– White female lawyer in a law firm*

Younger lawyers received comments like this from older lawyers:

- “Oh, you don’t know what you’re talking about.”
- “Oh, little girl.”
- Being patted on the head and asked, “Oh, how old are you?”
- And from opposing counsel: “Your Honor, I could be teaching this person law school courses.”

Several lawyers also referenced a culture of hazing that young lawyers experience:



**“There is an industry standard to mistreat, overwork, and haze new attorneys.”**

*– Black female lawyer in a law firm*

**“[I experienced] unreasonable expectations and demands placed on me by female partners who thought my experience as a junior lawyer should be as difficult as theirs had been.”**

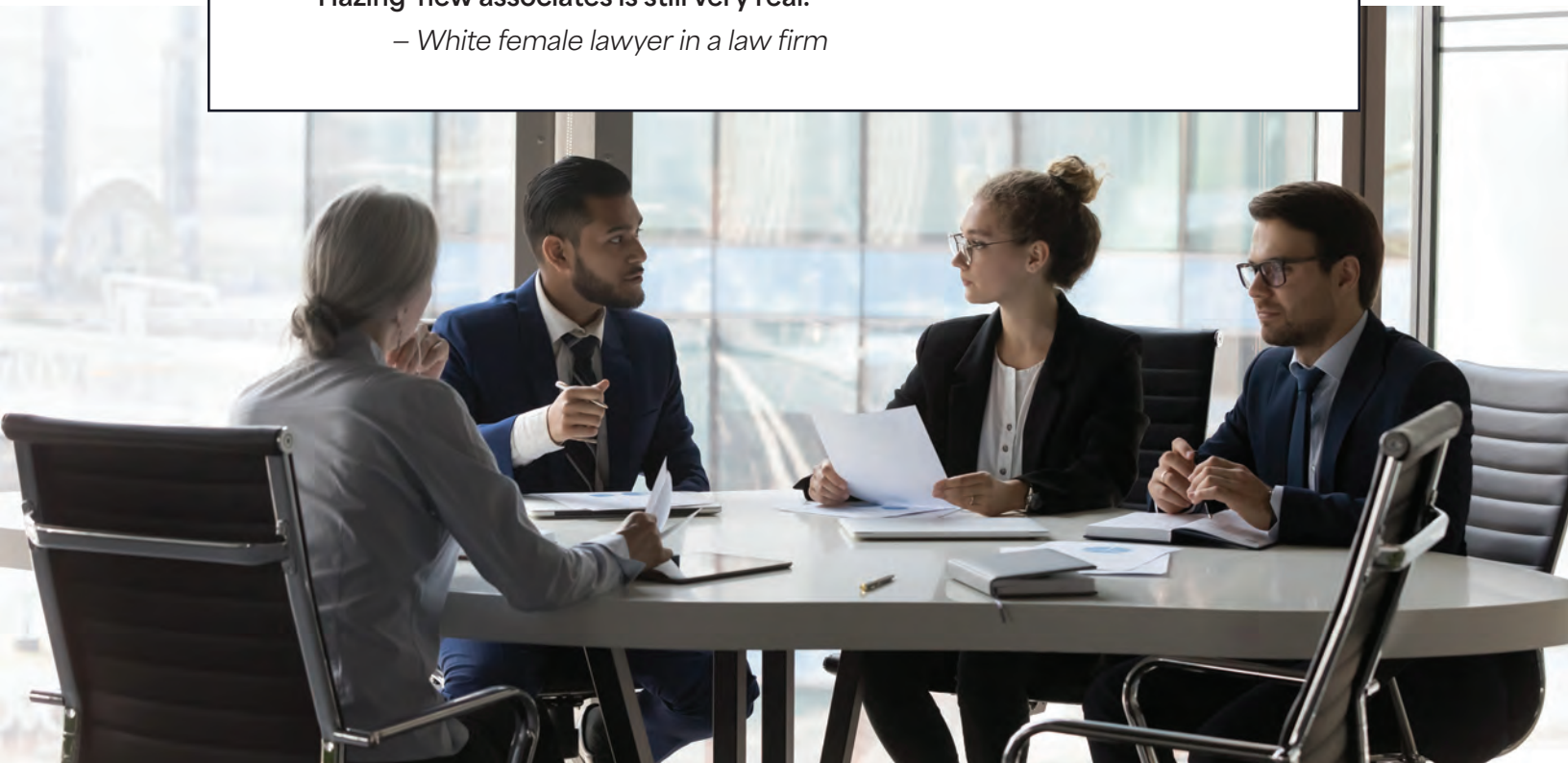
*– White female lawyer in a law firm*

**“[Bullying] shouldn’t be an expected rite of passage.”**

*– White female lawyer in a corporate law department*

**“‘Hazing’ new associates is still very real.”**

*– White female lawyer in a law firm*





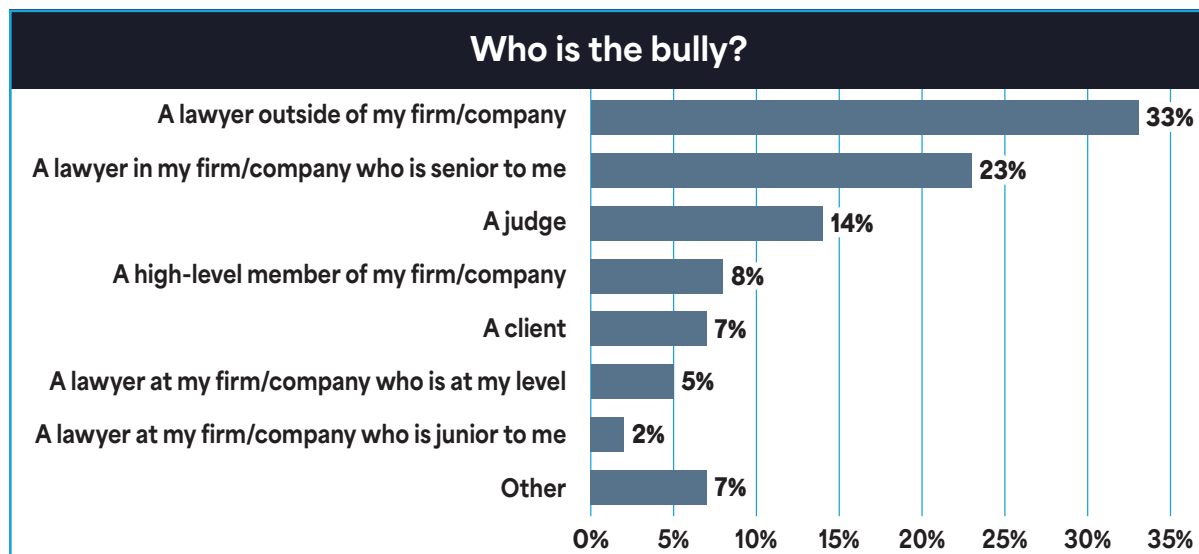
Being bullied specifically about a lawyer's age, however, is reported most frequently among the youngest and oldest lawyers: those who are 25-35 years old and those who are older than 65.

The numbers show that among all lawyers who were bullied in the past year, 42% of lawyers ages 25 to 35 and about 50% of lawyers ages 66 and older were the target of verbal bullying related to their age at least once in the past year. Less than 25% of lawyers in other age categories experienced bullying related to their age in the past year.

At this stage, and as described in recent literature, older lawyers can be targeted for supposedly staying on past their prime, especially in law firms, where there may be tension around the lawyer's status in the firm, credit for client development, succession issues, and more.<sup>14</sup>

Finally, there is often (but not always) a status imbalance between the bully and the lawyer they target. In describing their most recent experience with one-on-one bullying, 23% of lawyers reported that the bully was a lawyer in the same firm or company in a more senior position and 8% said the bully was at a very high level in the same workplace. For another 14% of lawyers, their most recent experience of being bullied involved a judge.

A substantial percentage of lawyers (33%) reported that their most recent experience was bullying by a lawyer who did not work in the same organization. Finally, a relatively small percentage of lawyers reported bullying by lawyers in their workplace at a similar or more junior level (7%) or bullying by a client (7%).



We now turn to more detailed findings about what happens when bullying occurs, the consequences for both the targets of bullying and those who bully, and how lawyers view the impact of bullying on the profession as a whole.

14. See, e.g., A.S. Persky, "Retiring Reluctantly: As Lawyers Age, Many Struggle With Exit Strategies," ABA Journal (January 11, 2024).

# VII.

## **What happens** in the moment and what are the consequences?

To learn more about the dynamics of bullying, we asked for detailed reports from those who were bullied in the past year about the circumstances and aftermath of their most recent bullying experience.

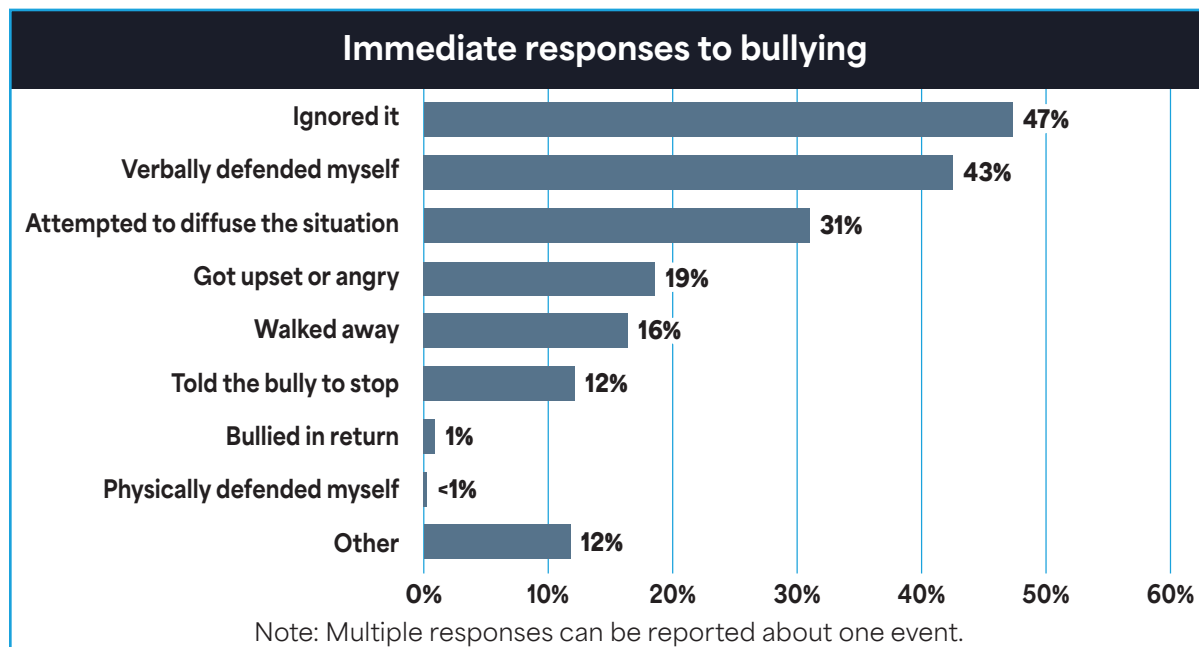


We were thus able to obtain an array of information describing:

1. “In the moment” reactions of lawyers who are bullied
2. The reactions of bystanders to bullying
3. The long-term reactions and consequences for lawyers who are bullied
4. How employers react to incidents of bullying
5. What factors prevent someone who is bullied from reporting the bullying

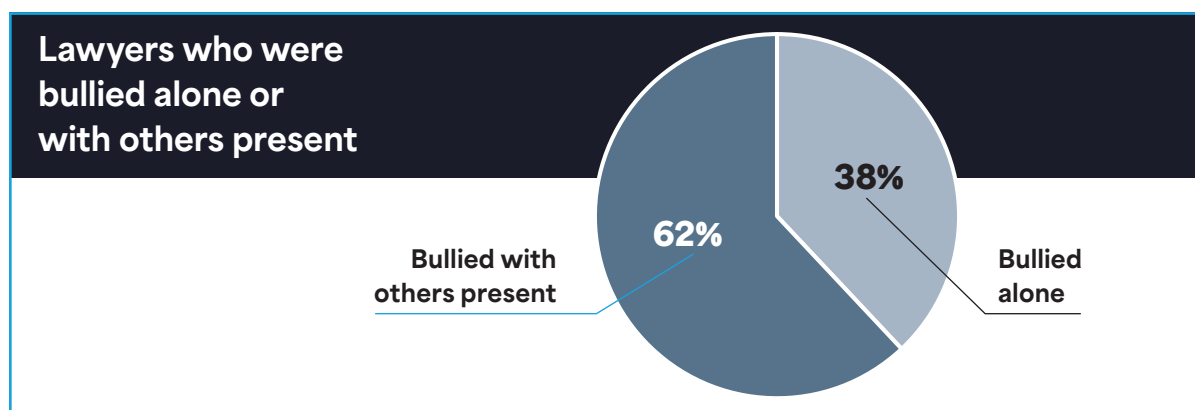
## ***Lawyers react in many different ways when they are bullied***

There were a range of immediate responses by lawyers when they were bullied, and some lawyers had more than one reaction. Almost half of lawyers who were bullied (47%) ignored the bullying and many others walked away (16%). Direct responses by those who were bullied included verbally defending themselves (43%), attempting to defuse the situation (31%), getting upset or angry (19%), and/or telling the bully to stop (12%). A small number (1%) responded by bullying in return, with a handful physically defending themselves (less than 1%).

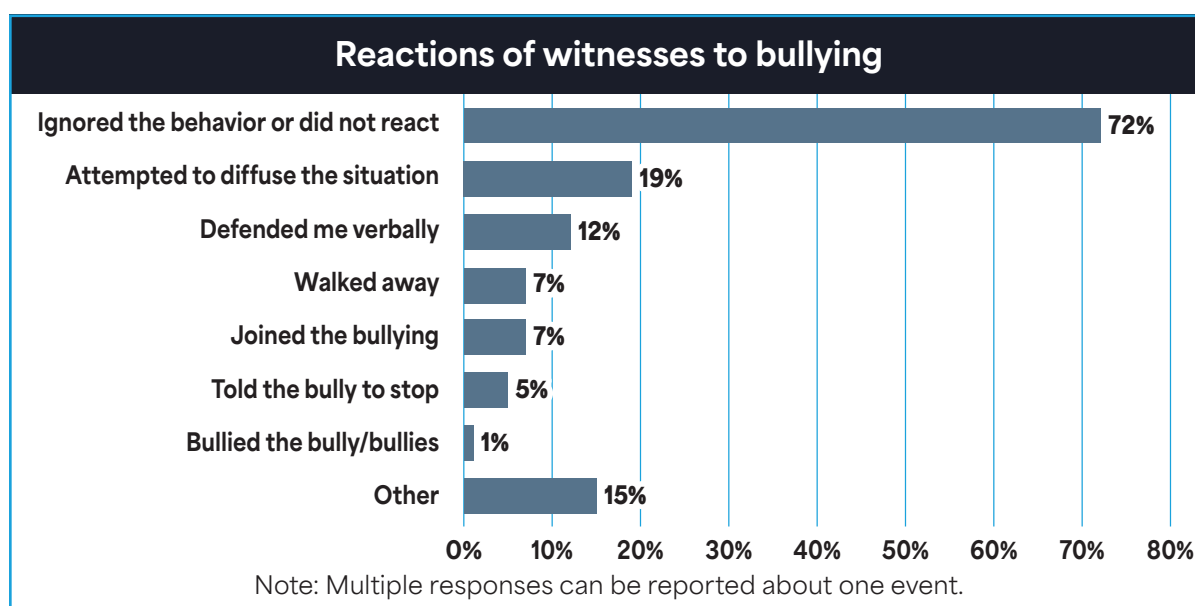


## The reactions of bystanders to bullying

Many acts of bullying take place in front of others. Indeed, the majority of bullying incidents reported by more than 1,400 lawyers occurred with at least one other person present (62%), even if that person was usually a bystander and not a participant in group bullying.



What did bystanders do when witnessing the bullying of another lawyer? Whether witnessing a single bully or a group of bullies, a large number (79%) ignored the bullying, did not react, and/or walked away. A substantial number of lawyer bystanders did take some positive action, attempting to defuse the situation (19%), defending the target verbally (12%), and/or telling the bully to stop (5%). Some lawyers (7%) actually joined in the bullying. A small number (close to 1%) reacted by bullying the bullies.



As these data show, many lawyers who are bullied must deal with it on their own, even if others are present.

## ***What happens later to those who are bullied?***

Bullied lawyers have many different post-event reactions. A majority tell a friend or family member (53%) and/or colleague (57%) about what happened. A smaller, but still substantial number, take personal time off (8%), contact the bully and complain directly to the bully about their behavior (8%), or ask their employer to remove them from working with the bully (5%).

Very few lawyers file legal action or report the bully to a legal authority (2%), often because they lack confidence that such authorities will react appropriately, and they fear that such filings will boomerang against them.

A substantial number (20%) report the bullying to their supervisor, upper-level attorney, or the organization's human resources manager.

Finally, a meaningful number of lawyers (20%) take no action about being bullied. Among other things, they do not report it to a supervisor; tell family, friends, or colleagues; or contact the bully and "complain" to them. That is not to say, however, that the bullying these lawyers experience has no impact on them, as shown later in the report.

<b>Post-event actions by those who were bullied</b>	<b>% of lawyers who took this action</b>
<b>Told a colleague about it</b>	<b>57%</b>
<b>Told a friend or family member about it</b>	<b>53%</b>
<b>Reported it to a supervisor, upper-level attorney, or human resources manager</b>	<b>20%</b>
<b>Did nothing</b>	<b>20%</b>
<b>Contacted the bully/bullies and complained to them directly about their behavior</b>	<b>8%</b>
<b>Took personal time off</b>	<b>8%</b>
<b>Asked my employer to remove me from working with the bully</b>	<b>5%</b>
<b>Filed a legal action or reported the bully to a legal authority</b>	<b>2%</b>
<b>Other</b>	<b>9%</b>
Note: Multiple responses can be reported about one event.	



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## ***What do employers do when they learn about bullying in their organization?***

Only 20% of respondents reported bullying in their workplace to either a supervisor, upper-level attorney, or human resources manager. Lawyers who did report bullying at work told us that the persons receiving reports about bullying frequently expressed concern about what had happened (75%).

However, only a minority of those supervisors, upper-level attorneys, or human resources managers who received reports about workplace bullying took any additional steps.

- Only 22% committed to taking appropriate action against the bully
- Only 18% committed to promptly investigating
- Only 14% committed to keeping the complaint and investigation confidential
- Only 9% offered access to support services

There was another set of reactions by persons in authority that may be worse than inaction: being critical of the person who was bullied. A number of employers expressed one or more of these reactions upon receiving a report about bullying at work:

- 12% questioned the lawyer who was bullied in a way suggesting that they were at fault
- 12% dismissed the complaint as not important or not believable
- 7% told the lawyer who was bullied that they were better off not making a complaint and not telling anyone about what happened
- 7% suggested that the lawyer who was bullied would be better off in a different position in the firm or company, or that they should try to find another job

Employer's response to report of bullying	% of lawyers who reported this response
Expressed concern about what happened to me	75%
Committed to taking appropriate action against the bully/bullies	22%
Committed to promptly investigate the bullying and report back to me about the findings	18%
Committed to keeping the complaint and the investigation confidential	14%
Questioned me in a manner suggesting I was at fault	12%
Dismissed my complaint as not important or not believable	12%
Offered me access to support services	9%
Told me that I was better off not making a complaint and not telling anyone about what happened	7%
Suggested that I should try to find another job	4%
Suggested that I would probably be better off in a different position in the firm/company	3%
Other	20%
Note: Multiple responses can be reported about one event.	

Proactive leaders support the lawyer who is bullied by making clear through words and actions that bullying is not acceptable in that workplace. Below are comments from Survey respondents demonstrating the types of positive support that employers gave when bullying was reported to a supervisor or leader in the organization.



**“My supervisors gave me the right set of tools to deal with the bully, to avoid this bully particularly, and to avoid being intimidated by this type of behavior regardless of whether it was this bully or the next one. I have excellent supervisors.”**

*– White female lawyer in a law firm*

**“My supervisor took immediate action to ensure that this would not happen again. I was very impressed and felt like my concerns were properly addressed.”**

*– Lawyer in government*

**“They took the matter seriously and took action.”**

*– Black male lawyer in a corporate law department*

**“My employer defended me and responded to opposing counsel’s email appropriately.”**

*– White female lawyer in a law firm*

**“The managing attorney listened, understood, accepted facts, helped me move on from the situation.”**

*– White female lawyer in government*

**“I am fine with the response [by my employer]. I think it was taken as seriously as I wanted it to be. I think my supervisor would have taken it further if I wanted that.”**

*– Multiracial female lawyer in government*

In contrast, another set of leaders essentially told the bullied lawyers that bullying was part of their culture, and they could take it or leave it.



**“The head of HR failed to address my concerns and seems to foster an environment conducive to bullying within that department.”**

*– White female lawyer in government*

**“The dismissiveness/‘that’s just the way he is’ attitude signaled that it’s better not to pursue.”**

*– Black female lawyer in government*



**“The answer wasn’t to remove me from the matter [what the employer did], the answer was to have my back and support me in confronting the individual.”**

*– Hispanic female lawyer in nonprofit*

**“Since the bully was the GC, NO ONE was interested in what occurred, despite two different bullying incidents occurring at upper management meetings. No one spoke up for me, even after I spoke up.”**

*– Black female lawyer in a corporate law department*

**“My employer said that was how the bully got things done.”**

*– White male lawyer in a law firm*

**“It is happening to others, yet nothing is being done, and I am told I cannot do anything.”**

*– Hispanic female lawyer in a corporate law department*

**“Individual who bullied me has a reputation as a serial offender.”**

*– White female lawyer in government*

**“He has a history of this action. They claim they verbally reprimand him. Nothing changes.”**

*– White female lawyer in a law firm*

**“Despite the bully having a history of such conduct, employer started investigation against me... I was then fired.”**

*– White female lawyer in a law firm*

**“After consulting my leadership and ethics officer about the bullying, they did not offer any solutions except to do nothing.”**

*– White male lawyer in government*

These comments reflect that the legal profession too often tolerates and, indeed, may even expect bullying to take place regardless of the harm it causes to lawyers, employers, and the profession as a whole.





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## ***Why is bullying so underreported?***

Given the lack of support by employers, it is no wonder that bullying is only reported in 20% of cases to supervisors, high-level leaders of firms, or human resources personnel. (Supra at 40.) One set of reasons reflects fear that reporting will not achieve any redress and may actually result in a worse situation, as reported by lawyers who were bullied in the past year<sup>15</sup>:

- **Fear of the status of the bully (27%)**
- **Think the employer would not do anything (27%)**
- **Is afraid of what would happen if they reported it (21%)**
- **Think they might lose their job or lose work (16%)**
- **The person to whom they would have to report is the bully (14%)**
- **Think they would not be believed (10%)**

Certain social norms or lack of knowledge also inhibit reporting:

- **Do not want to be perceived as weak or a complainer (34%)**
- **Think they can handle it themselves (33%)**
- **Think the behavior is not serious enough (27%)**

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<sup>15</sup>. Note: respondents could check multiple responses as reasons not to report.

More broadly, it should be no surprise that with the uncertainty of proactive support from an employer and the perceived risks of reporting, a full 20% of lawyers do nothing when they are bullied. (Supra at 40.) Indeed, many lawyers cited their employer's attitude that the job comes with being bullied and there is nothing to do about it except find another job.



**“There is not much I can do, except change jobs or try to work for other attorneys.”**

*– White female lawyer in government*

**“There is definitely a culture to just suck it up and take abuse from opposing counsel and judges because if you speak up, you’ll make it worse.”**

*– White female lawyer in legal aid*

**“If I said something, I might have lost my job. I feared possible repercussions.”**

*– Asian American female lawyer in government*

**“Going to HR for bullying is often not a good option because you get branded as a troublemaker, especially if you are making allegations about a leader.”**

*– Asian American male lawyer in a corporate law department*

When employers take no action about bullying, or minimize the event, lawyers are typically frustrated and disappointed.



**“The bully was a senior exec that no one dared criticize or ask to admit he did something wrong. I was told by my manager, ‘That’s just how it is,’ and ‘You have to learn to work with [name] and put on that fake smile.’”**

*– White female lawyer in a corporate law department*

**“No one spoke to the bully about the behavior. It is a take-it-or-leave-it culture. No focus on the bully and correcting the behavior.”**

*– White female lawyer in a corporate law department*

And there were many suggestions about what employers should do about workplace bullying. To cite only a few:



**“They need to stop creating and perpetuating the culture. It comes from the top.”**

– *White female lawyer in a law firm*

**“Set the proper tone at the top of the organization.”**

– *White male lawyer*

**“Set the right tone for the workplace and be willing to confront the offender when bullying is seen or reported.”**

– *Black female in the judiciary*

**“Senior staff must model appropriate behavior.”**

– *White female lawyer in nonprofit*

**“Ask employees to review their supervisors as part of an annual review. Employers should conduct an annual survey about bullying in the workplace. Have mandatory training on what constitutes bullying and civility in the workplace.”**

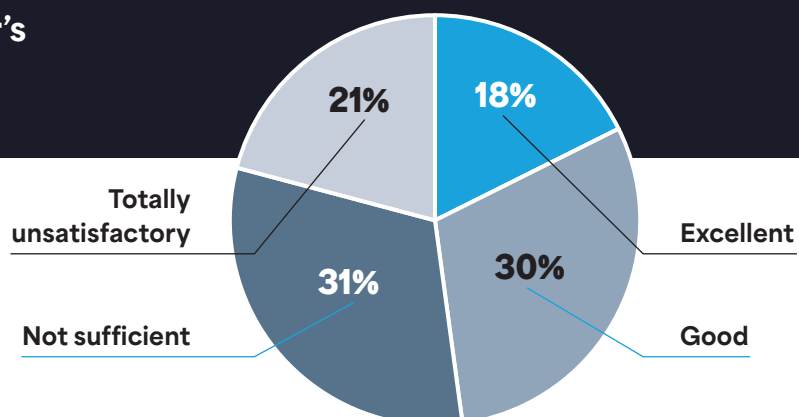
– *Asian/Asian American female in government*

**“Senior management needs to police itself and remember that they are setting the example for the entire office.”**

– *White female lawyer in government*

Many lawyers who were bullied could not depend on support and help from their employers. Indeed, the majority of lawyers give their employers low ratings on how their employer reacted to their reporting of workplace bullying. While 18% of lawyers rated their employer’s response to be “excellent,” and 30% rated it to be “good,” a larger number (52%) rated their employer’s response as either “not sufficient” (31%) or “totally unsatisfactory” (21%).

**Rating of employer’s response to report of bullying**



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## ***Bullies typically suffer no consequences***

One reason that bullying continues to take place is the lack of consequences for bullying behaviors. The absence of meaningful consequences was reported by both lawyers who did the bullying and lawyers who were the target of bullying. In only a small minority of situations were there real consequences for lawyers who bullied other lawyers.

The Survey captured data from almost 150 lawyers who reported they had bullied others. The vast majority of them (96%) said they experienced no consequences from their bullying behavior. A very small percentage of lawyers received a verbal warning from their employer (3%) for their bullying behavior and around 1% were let go and/or had some other consequence. While the number of bullying lawyers who responded to this question is relatively small, the lack of meaningful consequences for bullying behavior is overwhelming.

The victims of bullying reported similar results with 80% of lawyers who were bullied at work in the past year unaware of any consequences to the bully. When lawyers were aware of the consequences, they reported one or more of these:

- **6% reported a consequence to the bully by their employer, ranging from mild (e.g., taken off a matter, received a written warning) to serious (was fired or let go)**
- **13% reported some other type of consequence, such as the bully was reprimanded by a judge or the bully chose to leave their job**
- **5% reported that the bully's conduct got worse**
- **Unfortunately, some lawyers said the bully was promoted**



Of the more than 1,400 lawyers in the Survey who were bullied in the past year, only a small minority (7%) told us that the lawyers who bullied them later apologized or expressed regret for their actions.

Of the 144 Survey respondents who told us they had bullied other lawyers, a majority of them (78%) reported that they apologized to their target. Those who admitted to bullying presumably understood it was not good conduct and felt bad about it. Unfortunately, based on the totality of the data, that is a minority of lawyers who engaged in bullying conduct.

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## ***Lawyers look to judges for actions against bullying***

Many lawyers commented that it is highly impactful when judges firmly address bullying the moment it happens. When judges do, the entire atmosphere of the courtroom changes along with the bully's behavior.



**“A judge that makes it very clear from the first impression that something’s about to happen, that they are not going to tolerate that in their courtroom, makes a huge difference.”**

*– Hispanic female lawyer in not-for-profit organization*

**“Clearly and immediately communicate that such conduct is unacceptable and spell out a meaningful consequence for the second offense.”**

*– White male lawyer in government*

**“Address it in the moment and in open court.”**

*– White female lawyer in a corporate law department*

**“Admonish and sanction without hesitation.”**

*– White male lawyer in solo practice*

**“When observed, the offender should IMMEDIATELY AND PUBLICLY be called out.”**

*– White female lawyer in solo practice*

**“Call it out and have severe consequences. I once had a bar attorney make a ridiculously inappropriate comment about how all the female attorneys were on their periods together. I told the court coordinator, who said to tell the judge, which I did. The judge banned that attorney from the courtroom. That’s how it’s done.”**

*– White female lawyer in government*



**“Lawyers will get away with any and all behavior until they are policed by judges and sanctions become a real thing.”**

*– White male lawyer in solo practice*

Some lawyers told us that sanctions either by the judge or reporting to the ARDC should be on the table for repeat bullying:



**“Judges need to start sanctioning attorneys for inappropriate conduct.”**

*– White female lawyer in a law firm*

**“Address it openly when they observe it. If it continues, they should report the lawyer to the ARDC.”**

*– White male lawyer*

**“Admonish the bully. Report if it continues.”**

*– White male lawyer in government*

**“Admonitions; contempt if serious, referral to ARDC.”**

*– White male lawyer in solo practice*



# VIII.

## **The long-term impacts** of bullying on lawyers and the profession





## ***All too often, there are multiple negative consequences for lawyers who are bullied***

Bullying is not without costs, especially to those who have been bullied. The majority of those who are bullied experience at least one negative effect and often several negative effects:

<b>Negative effects reported by those bullied</b>	<b>% of bullied lawyers who reported this response</b>
Experienced a negative change in emotional well-being (such as anxiety, loss of self-confidence, and other negative feelings and reactions)	54%
Felt less productive at work	39%
Experienced a decline in physical health	20%
Had reduced opportunities to work on matters	12%
Changed jobs	6%
Changed practice areas or departments	4%
Lost a promotion opportunity	3%
Lost their job and stopped working as a lawyer	2%
Note: Multiple responses can be reported.	

The impact on lawyers resulting from this conduct is poignant, with significant professional and personal consequences.



**“Bullying compounds itself. After being bullied, you begin to worry. Then, you have trouble sleeping. You come to work, but you aren’t working at your full capacity.”**

*– Black female lawyer in a law firm*

**“The worst part is that it made me second guess myself.”**

*– Hispanic female lawyer in government.*

**“Bullying affects job performance because it can make you question your judgment.”**

*– White female lawyer in a law firm*



**“I asked myself, ‘Am I in the right profession?’”**

*– Asian American male lawyer in academia*

**“I am on anti-anxiety medication and manage a tremendous amount of stress that is tied most directly to the negativity that seems so much more personal in litigation.”**

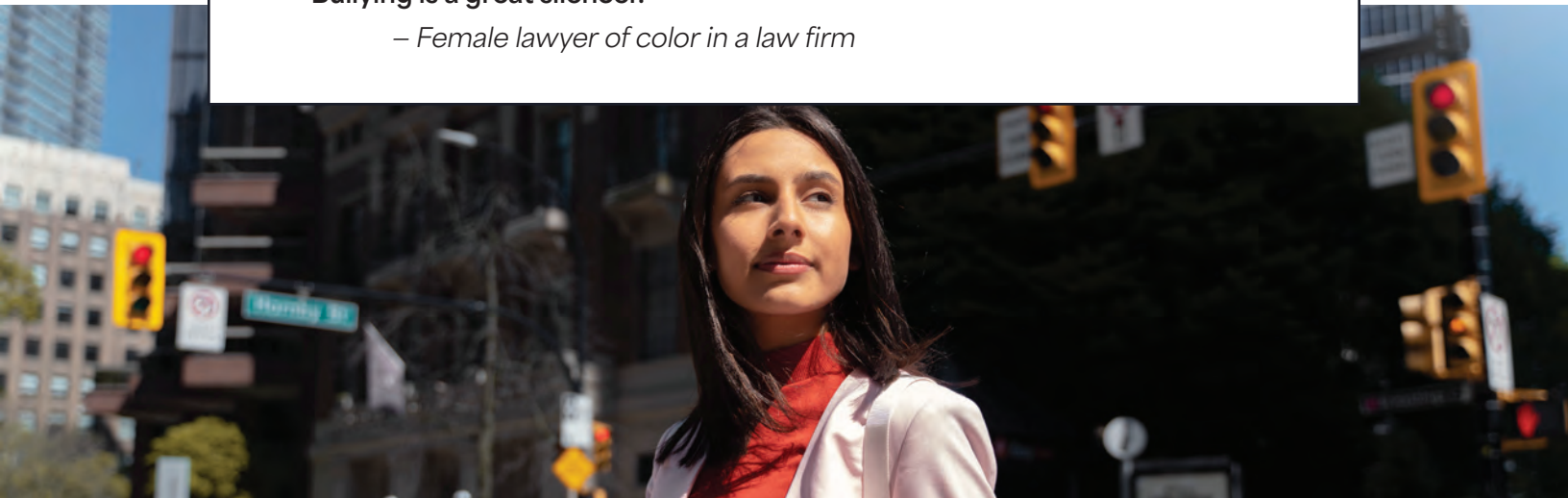
*– White female lawyer in a law firm*

**“When the opposing counsel threatened to give my home address to his client, I was legitimately scared.”**

*– White female lawyer*

**“Bullying is a great silencer.”**

*– Female lawyer of color in a law firm*



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## ***Bullying has a significant impact on the profession***

Changing jobs because of bullying is not a rare event. Of the thousands of lawyers who took the Survey, 18% reported that they had left a job practicing law because of workplace bullying.

Extrapolating that percentage to the total number of Illinois-based lawyers means that there are nearly 10,000 lawyers currently practicing in Illinois who left at least one job due to bullying.

Even at the time of the Survey, workplace bullying has a continued impact on the retention of lawyers. Nine percent of all lawyers who responded to the Survey are looking for a new job or would leave their current job because of bullying at work. Extrapolating that percentage to the population of active Illinois-based lawyers amounts to nearly 5,000 lawyers for whom bullying at work is pushing them to another job.

These findings demonstrate that bullying causes increased turnover and a talent drain from the profession.

*The impact of bullying is greater on women lawyers, LGBTQ+ lawyers, lawyers of color, and lawyers with a disability*

By far, the strongest impact of bullying in the workplace falls on women lawyers. Women are almost three times as likely as men to leave a job because of bullying (28% compared to 10%).

Lawyers with a sexual orientation that is not heterosexual and lawyers with an impairment affecting a major life activity are more likely to change jobs due to bullying.

Race and ethnicity also had an impact. White lawyers were the least likely to leave a job practicing law because of workplace bullying (17%), while the percentage of lawyers from other racial and ethnic groups who have left a job due to workplace bullying ranged from 21% to 24%.

Who has previously left a legal job due to bullying?					
Women	Men	LGBTQ+	Heterosexual	Substantial impairment	No substantial impairment
28%	10%	25%	17%	28%	17%

Who has previously left a legal job due to bullying?				
Black	Hispanic	Multiracial	Asian American	White
24%	24%	24%	21%	17%
Note: The number of lawyers from other races and ethnicities who answered this question was close to zero.				

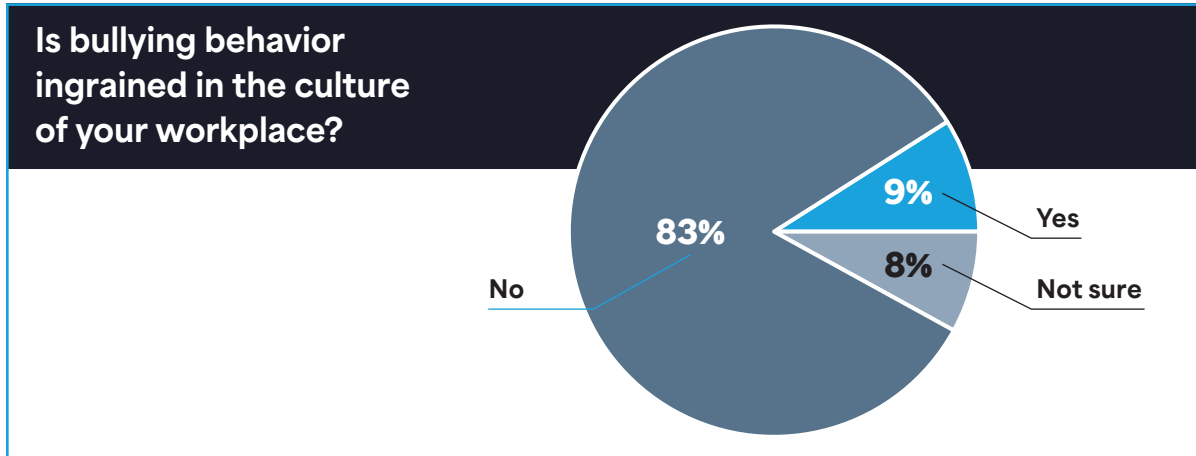
A key implication of the data is that a workplace without appropriate anti-bullying standards, policies, and procedures is more likely to lose women lawyers, LGBTQ+ lawyers, lawyers of color, and lawyers with a disability due to bullying. This loss of talent and diverse perspectives should be of great concern to firms, governmental agencies, and companies, as well as the legal profession as a whole.

The U.S. and Illinois are, as a demographic fact, becoming increasingly diverse.<sup>16</sup> To the extent that bullying at work drives lawyers away from their jobs or indeed the practice of law, the profession as a whole will suffer. Those organizations that tolerate bullying will find it increasingly hard to hire and retain talented professionals, especially those who are women lawyers, LGBTQ+ lawyers, lawyers of color, and lawyers with a disability.

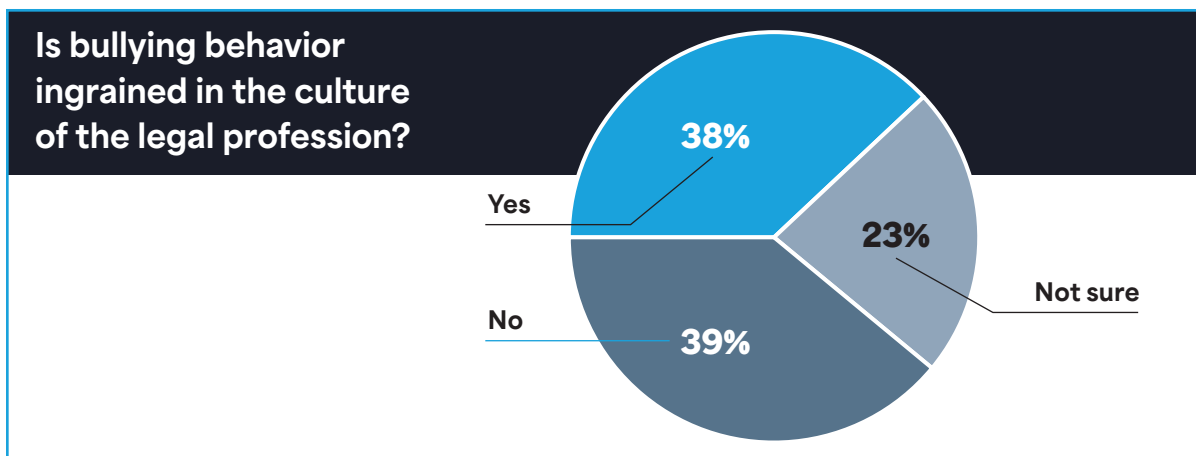
16. Stephanie Scharf and Roberta Liebenberg, “Law Firm Talent Must Reflect Shifting US Demographics,” Law360 (June 16, 2021).

## ***How ingrained is bullying in the workplace and the culture of the legal profession?***

A number of lawyers, although not the majority, believe that bullying is ingrained in the culture of their workplaces. Among all lawyers we surveyed, 83% think that bullying is not part of the culture of their specific workplace. Nine percent think bullying is ingrained in the culture of their workplace and another 8% are not sure.



It is a different story, however, when lawyers are asked whether bullying behavior is ingrained in the culture of the legal profession. A much larger percentage (38%) believe that bullying is an ingrained behavior, while another 23% are not sure, and 39% think that bullying is not ingrained in the culture of the legal profession.



Many lawyers wrote about bullying being entrenched in the profession, and here is a sample of those comments:



**“100% ingrained, especially in litigation.”**

*– Black female lawyer in a corporate law department*

**“Competitiveness is baked into the legal profession from the time the LSATs are taken through the type of firm one works in. It’s extremely hierarchical and perfectionistic, which lends itself to bullying behaviors. Some firms are better than others, but it is endemic to the profession.”**

*– Multiracial female lawyer in a law firm*

**“It permeates throughout the legal culture, especially in courtrooms and with the judges... It is embarrassing to the public perception of the legal system and is completely contrary to the concept of access to justice.”**

*– Hispanic male lawyer in government*

**“I find it stunning to be asked about the well-known, rampant problem of bullying that has been condoned in most legal settings for years. Decades. Particularly in firm and litigation settings. It is viewed as a way to get ahead in the workplace and show your competence with clients. It is RAMPANT. And that is because it has been condoned from the top down with no feelings of consequence for the harm it causes.”**

*– Lawyer (chose not to provide demographic information)*

**“It starts with the hyper-competitiveness in law school and continues into the workplace. For example, in your first job, everyone is asking, ‘Where did you go to school?’”**

*– Black female lawyer in a law firm*

**“A lot of people who are bullies can just say, ‘I didn’t mean to do that,’ and it’s an out. They maybe didn’t intend it, but they did it.”**

*– Asian American female lawyer in a law firm*

**“A lot of attorneys have the attitude that if they are loud and aggressive as opposed to intelligently presenting the law, the issue will go away and/or they will win.”**

*– White female lawyer in a law firm*

**“Too many lawyers think rude, obnoxious, and demeaning behavior equals ‘tough lawyering.’”**

*– White female lawyer in solo practice*

In addition, many lawyers and judges told us that bullying has become worse since the COVID-19 pandemic:



**“I’ve definitely seen it get worse since Zoom court started. There’s been a breakdown in people’s sense of belonging since they no longer see one another in person. They’re just yelling at each other on Zoom, and you have to mute them and deal with it as a judge.”**

*– Male judge of color*

**“When people only interact virtually, they feel invincible and are more likely to be uncivil,” referring to “Zoom muscles.”**

*– White male judge*

**“As personal contact has shrunk – attorneys, clients, judges have become less patient and more reactive; people say things in writing, on calls and in court that they would have never said 10 years ago – professionalism is eroding.”**

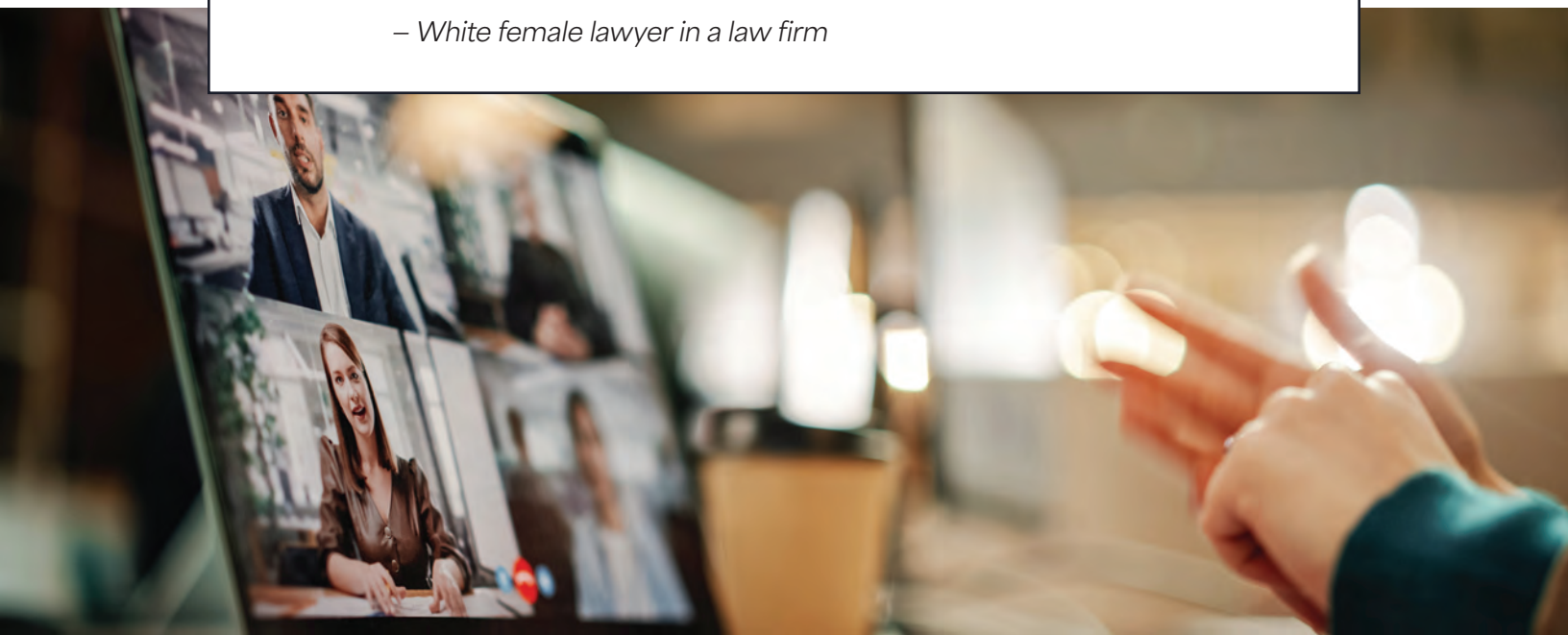
*– White female lawyer in a law firm*

**“Post-Covid, people interact differently; there’s an increased lack of civility. Adversaries and judges are more short-tempered.”**

*– Male lawyer in government*

**“Attorneys seem emboldened to misbehave and treat others poorly when they are hiding behind a screen and do not have to sit in the same room with you or run into you at the courthouse. It is making the practice more difficult than ever.”**

*– White female lawyer in a law firm*







The lack of consequences for bullying did not go unnoticed by lawyers. Without meaningful consequences, the bullying will continue, which is the view of many lawyers who provided comments in the Survey and focus groups, for example:



**“If there are no consequences to bad behavior, it will continue.”**

– *White female lawyer in nonprofit*

**“Until there’s actually consequences for the bully, I don’t think there’s an impetus to go after them.”**

– *Hispanic female lawyer in nonprofit*

**“There need to be consequences or behavior doesn’t change.”**

– *White female lawyer in nonprofit*

**“Action needs to be taken above and beyond saying ‘Hey, be nicer.’ They need to actively explain the harm done and why it is inexcusable.”**

– *Female lawyer in nonprofit*

**“Bullying happens because it’s allowed to happen.”**

– *Hispanic male lawyer in a corporate law department*

**“It’ll never stop if there aren’t meaningful consequences to bad behavior.”**

– *White female lawyer in a corporate law department*



More than a few lawyers addressed the problem of bullies who are important financially to an organization, and that leadership should not give those lawyers a pass:



**“Stop protecting ‘rain makers.’ Make it clear that consequences will be given for any instance of bullying.”**

*– Black female lawyer in a corporate law department*

**“Sometimes the bullies are big earners, so the other partners accept money in exchange for civility. Eventually, it’s a cancer and hurts the organization.”**

*– White male lawyer in a law firm*

**“Fire people – even the high billers – and people will see it’s taken seriously.”**

*– White female lawyer in a corporate law department*

**“Actually imposing consequences on bullies, even bullies with a big book of business.”**

*– White female lawyer in government*

**“Leader of firm must make clear that bullying will not be tolerated, including not hiring (or keeping) attorneys with large books or looking the other way at bad behavior.”**

*– White male lawyer in a law firm*

A number of lawyers wrote that bullying behavior should be handled by the ARDC, as a means of impacting a lawyer’s income. As one lawyer put it, “If we can make [bullying] not pay, it’ll go away.”

Lawyers took the time to suggest a wide range of one or more consequences for bullying behavior, including verbal warnings, written warnings, financial penalty (for example, docking pay or reducing or eliminating bonus), required coaching/counseling/retraining, anger management classes, report to the ARDC, admonishment, sanctions, demotion, no promotion, and termination.

It is striking that a majority of lawyers do not agree with a “just let it go” policy or practice, which they consider to be the most common approach.

Finally, the depth and breadth of the findings in this study set the stage for a critical goal of the research: to identify best practices for all parts of the legal profession to reduce bullying in the profession.





## **Recommended best practices** to reduce bullying in the legal profession

Informed by the Survey data and focus group responses, we have framed recommended best practices for lawyers, leaders in the profession, and bar associations. We view these recommendations as outlines for the formation of policies, initiatives, and actions that the legal profession in Illinois can take to effectively and proactively address and prevent workplace bullying.

The Illinois Supreme Court Commission on Professionalism has paved the way for promoting a more civil, ethical, and inclusive legal profession in Illinois through important educational programming and resources. But more help is needed, and lawyers understandably look to all segments of the profession – including their employers, colleagues, judges, bar associations, and other leaders in the profession – to do more.

We emphasize the important role that leaders play in eliminating bullying in the profession. “It comes from the top” is a reaction that we heard time and again from lawyers and that leaders need to “set the proper tone at the top,” “model appropriate behavior,” and “remember that they are setting the example for the entire office.” With a focus on leadership as the key, we make these recommendations.



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## ***1. Implement anti-bullying policies in all workplaces where lawyers practice***

The profession needs workplace policies that unequivocally denounce bullying and clearly describe bullying conduct and unacceptable behaviors in the workplace. A common theme in both the focus groups and Survey responses was the importance of holding lawyers accountable for their bullying conduct. Meaningful change and accountability require consequences for individuals who engage in bullying.

Before framing an appropriate policy, an initial step is to understand the culture of your organization as it is experienced by employees at all levels and from diverse backgrounds. Leaders can engage in informal conversations with lawyers at various levels to discover

their experiences and views about bullying, as well as receive suggestions for anti-bullying strategies, procedures, and policies that would work best in their particular workplace.

Part of that process should be an “open door” invitation for lawyers and staff to reach out to designated leaders on the subject of bullying. Information and private conversations can yield unexpected and useful information to flush out any particular problems about the extent of bullying, whether there are certain forms of bullying that are more frequent than others, and whether there is a problem known in the organization but not necessarily at the highest levels.

Turning to the framework of an effective policy, a meaningful anti-bullying policy should be written and distributed to all employees, with regular updating and annual redistribution. Effective policies and procedures send a strong message from the top leaders of the organization that bullying will not be tolerated.

**While there is no one-size-fits-all policy,** below are elements for employers to consider when deciding what approach is a good fit for their organization.

#### **A. Definition and examples of bullying.**

A definition of bullying along with multiple examples (like the examples of bullying provided earlier in this Report) provide a general framework. The policy should also include a statement about where bullying can occur, such as in one-on-one meetings, group meetings, interactions with clients, interactions in court, litigation activities, social events held by the organization, or other gatherings of lawyers.

#### **B. Procedures for confidential and retaliation-free reporting.**

Survey and focus group respondents noted the importance of implementing safe, confidential, and effective ways to report bullying. Many Survey and focus group respondents told us that reporting is often inhibited because targets feel pressured to “get along,” “not make waves,” or be a “good team player.” In a similar vein, lawyers spoke about the need for “prompt” and “retaliation-free” methods for reporting bullying.

The appropriate procedures can help to counter the fear of adverse repercussions or retaliation. There should be designated personnel (at least two people) to whom bullying can be reported. Personnel who handle complaints should receive training on the policy’s

procedures and how to communicate with the individuals involved. Moreover, such personnel should be required to treat the complaint and investigation as confidential to the fullest extent possible. Some employers implement a reporting system that depends on information provided to a third party, such as a designated ombudsman outside the usual reporting system.

The reporting policy should also prohibit overt or even subtle forms of retaliation by either the bully or others in positions of power, like a partner failing to assign work or provide business development opportunities to an individual who has raised a concern or complaint about bullying.

### **C. Procedures for prompt investigation and follow-up communication.**

A claim of bullying should be investigated as promptly as possible. The investigation should lead to a report or written record of the process and findings. Both the person making the charge as well as the person accused of bullying should be informed of the results. The record should also include the names and titles of the person(s) in the organization who have signed off on the process and its conclusions.

### **D. Implementation of appropriate remedial actions.**

Not all misconduct and consequences are the same, and depending on the findings, consequences may include one or more of the following: verbal reprimand, formal written reprimand, mandatory training, change in leadership position, demotion in job status and/or compensation, termination, or other remedial action.

Remedial actions may also include changes in the organization's policies or practices. At a broader level, one incident or a set of bullying events may suggest the need for a policy change, broader training, or some other organization-wide actions.

### **E. Follow up.**

Because many Survey respondents and focus group participants indicated that fear of retaliation inhibited them from reporting bullying, it is imperative in the weeks and months following the conclusion of the investigation that a designated individual meets with the person who made the complaint to see whether they are experiencing any additional forms of bullying, including retaliation.





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## ***2. Institute regular and customized workplace training against bullying***

An essential component of an effective anti-bullying policy requires training, on an annual basis, on the organization's anti-bullying policies and practices. Annual training required at all levels of the organization will reinforce an understanding of the purpose, content, procedures, and consequences under the organization's anti-bullying policy. However, the structure of the training may vary depending on whether it is directed to those in leadership roles or the organization as a whole.

All elements of the anti-bullying policy (including the definition of bullying, examples of bullying behavior, the reporting process, and the organization's policies and practices when a report is made) should be part of the annual training. Other useful topics include the negative impact of bullying on individuals and the organization, and insights into effective leadership, effective teamwork, and approaches to communication.

Training should provide techniques and guidance on how to respond to bullying incidents. In particular, training would be useful to illustrate the difference between "zealous advocacy" and conduct that is intimidating, demeaning, unduly aggressive, abusive, and unprofessional.

Useful training could also focus on what a bystander can do when they observe bullying. There are many ways in which bystander intervention could be effective, and training with respect to such strategies could make a real difference in preventing or remediating bullying conduct.



Because bullying is often directed toward women lawyers and lawyers of color, and particularly impacts the youngest lawyers, **implicit bias training** can be incorporated into anti-bullying training to educate lawyers about unconscious biases that may lead to objectionable statements and conduct.

We suggest that law schools also offer training so that students learn that they may face bullying in the workplace, appropriate conduct in law school and when they are practicing law, and the best strategies for addressing instances of bullying. This approach is especially appropriate given that the youngest cohort of lawyers reports more bullying compared to older peers.

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### ***3. Enforce anti-bullying standards in courtrooms and litigation activities***

We received hundreds of comments from lawyers and judges about bullying in the courtroom and litigation activities. Some judges are fully aware that their actions matter for stopping bullying.



**“If it’s in the courtroom, it’s on the judge.”**

– *Hispanic male judge*

**“Set the tone myself. This minimizes inappropriate behavior.”**

– *White female judge*

**“Shooting it down right away is generally effective.”**

– *White male judge*

Many lawyers gave pointed descriptions of bullying in court or litigation. Sadly, there were more than a few reports of bullying by judges. The extent of the data persuaded us that the time is ripe for greater guidance to judges and litigators alike about what is and is not

acceptable behavior and how best to eliminate bullying in court and litigation activities. To develop useful guidelines and support for judges, we focus here on two recommendations.

#### **A. Circuit-wide standing order:**

We recommend the adoption of circuit-wide standing orders regarding bullying and incivility in courtrooms and legal proceedings. Far too many lawyers told us they feel they have nowhere to turn when they are bullied in court. And while some judges may take swift action against bullying, others feel they lack guidance about how to react to bullying when they become aware of it.

Judges and litigators alike will benefit from written guidance about acceptable and unacceptable behaviors in court and the course of litigation, and actions to take when a judge sees or is informed about bullying in the courtroom or litigation events (for example, in depositions, other discovery activities, or settlement discussions).

#### **B. Continued judicial training:**

Judges should continue to receive training regarding the tools and powers they have to address incivility and bullying, as well as harassment. Training should include examples of bullying that happens in court or the process of litigation. Training can also review judicial obligations under the Illinois Code of Judicial Conduct (“Code”) such as prohibitions against judges engaging in harassment or permitting others subject to their direction to do so (Rule 2.3) and the obligation to report to the Illinois Judicial Inquiry Board or take appropriate action when a judge becomes aware that another judge has violated the Code (Rule 2.15).

### **Illinois Rules of Professional Conduct**

In addition to the previous recommendations, it is important to acknowledge that several Illinois Supreme Court Rules of Professional Conduct encompass bullying, starting with the Preamble to Article VIII, which requires every lawyer to maintain a “professional, courteous and civil attitude toward all persons involved in the legal system.”

Rule 4.4 states, “In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.”

Rule 5.1 requires law firm partners or lawyers who possess comparable managerial authority to make reasonable efforts to ensure that the firm has measures in effect giving reasonable assurance that lawyers will conform to the Rules of Professional Conduct. It also requires a lawyer “having direct supervisory authority over another lawyer” to “make reasonable efforts to ensure that the other lawyer conforms” to the Rules.

Rule 8.4(j) provides that it is professional misconduct for a lawyer to “engage in conduct in the practice of law that the lawyer knows or reasonably should know is harassment or discrimination on the basis of race, color, ancestry, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, gender expression, marital status, military or veteran status, pregnancy, or socioeconomic status.”

Many Survey responses and focus group comments show that a large number of lawyers believe that the ARDC must play a visible role in eliminating bullying by investigating bullying complaints and, when bullying takes place, seeking an appropriate and public penalty.

We recommend that when the ARDC receives complaints of bullying that show violations of the Rules of Professional Conduct, that it continues to use its discretion to pursue appropriate measures – education, remediation, or discipline – in response to such complaints.



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#### ***4. Bar associations should continue to educate and offer other anti-bullying support***

Bar associations, with their resources and reach, have a significant role to play in addressing bullying in the legal profession in several respects. The collective voice and power of a bar association’s members can be a powerful tool for change.

Bar associations can play a key role in raising awareness and providing solutions through a range of programs. Programs can educate lawyers and raise awareness about the ramifications of bullying and why the legal profession should take steps to eliminate bullying.

Bar associations should continue to sponsor CLEs about bullying, raise awareness about how bullying takes place, and educate about the best ways to react if a lawyer is bullied or observes bullying as well as the ramifications of bullying when it is not addressed.

Bar associations are also well-positioned to develop model anti-bullying policies and educational toolkits that identify how bullying takes place and provide best practices that employers, the judiciary, bar associations, law schools, and other organizations can use to educate their constituents and adopt as appropriate.

Bar associations can offer another important service: sponsoring lawyer-to-lawyer mentoring programs that provide support, strategies, and a safe place for victims of bullying to receive guidance, especially when lawyers feel they cannot confide in their employer or a court about a problem. One model for a program is Lady Lawyers Who Lunch, a resource formed by a group of women lawyers to serve as a safe place where lawyers who have been bullied in the course of litigation can discuss their experiences and receive guidance and help with the next steps.

Bar associations often publish magazines or news alerts for their members, and regular reports about the problem of bullying and solutions would augment these other activities.

All of these programs could draw on the activities and other resources provided by the Illinois Supreme Court Commission on Professionalism, such as its curriculum for the Lawyer-to-Lawyer Mentoring Program (which is used by many bar associations, law firms, and other legal organizations throughout Illinois) to incorporate activities and resources specific to bullying, including guidance for younger attorneys who are being bullied and guidance for more senior attorneys who want to intervene when bullying is occurring.

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## ***5. Steps individuals can take***

The effect of bullying on individuals is pernicious and damaging and can result in emotional and physical harm. Bullying can adversely affect job performance and career advancement and cause the person who is bullied to leave their place of employment. It is important to understand that being bullied is not your fault – it is wrongful conduct by the person doing the bullying.

All lawyers should be prepared to address bullying in their workplaces – whether they are bystanders or targets of bullying – and decide what to do in various situations. There is no one right way to respond to a bully, although advance discussion in formal programs through CLEs sponsored by a bar association or your employer, and discussions in a mentoring group or informal network, will help you to frame your responses when bullying occurs.

The Commission on Professionalism offers free online and in-person CLEs on bullying, implicit bias, incivility, and effective responses to such situations, and is planning to develop CLEs specific to bullying that incorporate the data and recommendations from this Report.

If you are the target of bullying, there are steps you can take in the moment and afterward. For example, you may feel strongly that it is important to respond immediately by telling the bully (or others in authority) what the bully is doing and that it is unacceptable, or you may want to ignore the bully's conduct and move forward with the business at hand.

In a court setting, you may decide to recite to the judge what the bully is doing and ask the Court to remind the bully about required civility. In a deposition, the bully's verbal conduct is on the record and you can put all of the bully's nonverbal conduct on the record as well, such as the fact that they were shouting, red-faced, hovering over the witness, or any other improper conduct.

You may decide after the event has taken place to confront the bully about their behavior and set a framework and consequences for it not happening again. These are only a few of the ways that you may choose to react, but there is no one right way that fits every person who is the target of bullying.

If your workplace has anti-bullying policies, follow the procedures and enlist the support and advice of friends, mentors, and sponsors within and outside your organization. Always document the bullying with contemporaneous emails, memos, or meetings with a colleague, supervisor, or friend.

Even when your employer does not have written anti-bullying procedures, consider if and how you want to report the bullying to a supervisor or more senior lawyer. This is a time when discussion with individuals outside your workplace can be especially effective.

After bullying takes place, it can be helpful to confide in someone with whom you can express your feelings, including friends, mentors, or sponsors in or outside of your organization. Look to bar associations or mentoring groups as safe places to discuss what happened and work through what you would like to do about it.

Working in a setting where bullying is treated as “part of the job” is not a sustainable way to practice law. Know that there are people and resources to help you decide how best to address the situation. **All lawyers deserve to practice in a workplace that respects them and provides opportunities to succeed in and enjoy the practice of law.**



## Conclusion







This research supports those in the legal profession who have long raised concerns about the prevalence of bullying conduct, and its adverse consequences for individuals, employers, and the profession as a whole.

**Our findings should be a wake-up call that change is needed now.** All lawyers practicing today can lead by example, raise awareness about bullying and its impact, and make the legal profession more inclusive, civil, and respectful. The ultimate result will be a greater level of lawyer well-being, workplaces that are more supportive of the lawyers who work there, enhanced success for lawyers and their organizations, and greater respect for the legal profession by lawyers and the public.



## Appendix: The demographic profile of lawyers working in Illinois and taking the Survey

The Survey was sent in September and October of 2023 to approximately 55,000 Illinois-based lawyers who were registered with the ARDC as active in 2023. A total of 6,010 lawyers who were actively practicing participated in the Survey. Below are the demographic breakdowns of the Survey respondents.



### Age and year of law school graduation

The median age of Survey respondents is 54, with 25% of those surveyed age 42 or younger and 25% age 65 or older. These data, which reflect a large number of Baby Boomers and Gen Xers and fewer law graduates in more recent years, are close to but slightly older than the age statistics for all active Illinois-based lawyers.

About 26% of the population of all active Illinois-based lawyers was age 39 or younger and 26% of the population was age 60 or older.

Age	25-35	36-45	46-55	56-65	66-75	76-85
% of respondents	12%	21%	20%	24%	17%	5%
Note: Lawyers under the age of 25 (n = 4) and over 85 (n = 25) are not represented in this graph due to their very small sample sizes.						

The median year of law school graduation among Survey respondents is 1997. The median years in practice is greater for Survey respondents than for the general population of all active Illinois-based lawyers by roughly five years. That said, the Survey respondents reflect lawyers across all years of practice, with lawyers graduating as long ago as 1950 and as recently as 2023.

### Gender identity and sexual orientation

Forty percent of practicing lawyers who responded to the Survey identify as female, 57% identify as male, and 3% have other gender identities. These data roughly parallel the gender percentages for the population of Illinois lawyers.<sup>17</sup> Ninety percent of Survey respondents reported their sexual orientation as heterosexual, with 2% as bisexual, 2% as gay or lesbian, and 6% other or prefer not to answer.

Gender identity	% of respondents
Female	40%
Male	57%
Nonbinary/Other	3%

Sexual orientation	% of respondents
Heterosexual/Straight	90%
Other/Prefer not to answer	6%
Bisexual	2%
Gay/Lesbian	2%

### Race and ethnicity

The race and ethnicity breakdowns parallel the level of racial and ethnic diversity in the profession as a whole, based on national statistics.<sup>18</sup> Among Survey respondents, 82% of respondents are white while the remaining 18% are from different races and ethnicities (Black/African American, Hispanic/Latino/a, Asian/Asian American, Middle Eastern or North African, multiracial, or other) as shown next.

<sup>17</sup>. Among Illinois-based lawyers for the 2023 bar year, 62.5% of lawyers identified as male and 37.3% identified as female and the small remaining percentage either did not declare a gender or identified as nonbinary. The Survey sample has a slightly greater percentage of female respondents than the lawyer population as a whole.

<sup>18</sup>. National comparison data published by the American Bar Association. See [https://www.americanbar.org/content/dam/aba/administrative/market\\_research/2022-national-lawyer-population-survey.pdf](https://www.americanbar.org/content/dam/aba/administrative/market_research/2022-national-lawyer-population-survey.pdf). The Illinois ARDC does not collect data about race or ethnicity of registered lawyers.

Race and ethnicity	% of respondents
White/Caucasian	82%
Other/Prefer not to answer	6%
Black/African American	4%
Hispanic/Latino/a	3%
Asian/Asian American	2%
Multiracial	2%
Middle Eastern or North African	1%
Note: The numbers of Native Hawaiian/Pacific Islander and American Indian/Alaska Native respondents were close to 0% and are not represented in the table.	

### Disability status and need for accommodation(s)

Five percent of lawyers who responded to the Survey reported an impairment that substantially limits one or more major life activities. Among this 5%, one-third require an accommodation to work.

Do you have an impairment that substantially limits major life activity?	% of respondents
Yes	5%
No	95%

Among lawyers who have an impairment: Do you require an accommodation to work?	% of respondents
Yes	33%
No	67%

## Workplace, position, and work logistics

### Hours typically worked each week

Some two-thirds of lawyers (65%) who responded to the Survey work more than 40 hours a week, with almost one quarter (23%) working over 50 hours a week. For those not working 40 hours per week, 21% work 31 to 40 hours a week – functionally full-time. Only a small percentage of respondents (14%) reported working less than 31 hours a week.

These data suggest that the large majority of respondents have substantial on-the-job experience from which to observe and report on the extent of bullying and what could be done about it.

Hours typically worked (all employment settings)	% of respondents
Over 50 hours	23%
41 to 50 hours	42%
31 to 40 hours	21%
21 to 30 hours	6%
10 to 20 hours	4%
Fewer than 10 hours	4%

### Employment setting

Illinois lawyers work in many different settings: all sizes of law firms; corporate law departments; government at local, state, and federal levels; legal aid and other nonprofit settings; the judiciary; academia; and more. This robust response rate from a variety of employment settings further enhances our view that we can draw meaningful general conclusions from the Survey data.

Where lawyers work	% of respondents
Law firm	42%
Solos	25%
Government	16%
Corporate law department	10%
Other	3%
Legal aid	2%
Nonprofit	2%
Judiciary	1%
Law school/Academia	1%

## Lawyers practice in many different settings

About 67% of Survey respondents work in private practice, with the other 33% working in other settings.

A large number of private practice Survey respondents work in small firm settings, either as solos (38%), in firms with 2-5 attorneys (26%), or in firms with 6-10 lawyers (9%). Moving up in size, 12% of Survey respondents work in firms with 11-50 lawyers, 5% work in firms with between 51 to 249 lawyers, and 10% work in firms with 250 or more lawyers.

Number of attorneys in firm	% of respondents
Solo	38%
2-5	26%
6-10	9%
11-50	12%
51-249	5%
250+	10%

## Employment position

As shown in the table below, an array of lawyers at all levels of private practice responded to the Survey. The much smaller percentages of staff and contract attorneys reflect that such positions are still not the norm.

Percent of position in firms (with more than one lawyer)	Number of lawyers in firm					
	2-5	6-10	11-50	51-100	101-249	250+
Equity partner	63%	38%	29%	31%	39%	33%
Non-equity partner	6%	21%	31%	28%	26%	21%
Counsel	6%	6%	8%	12%	7%	16%
Associate	22%	30%	26%	24%	19%	24%
Staff attorney	1%	3%	3%	2%	4%	4%
Contract attorney	1%	2%	2%	2%	5%	1%

Most lawyers who do not work in private practice work in companies, not-for-profits, or other organizations. Seventy-one percent of those Survey respondents work in Counsel or Senior Counsel positions. About the same percentage who occupy Deputy General Counsel positions (13%) occupy General Counsel or Executive Director positions (14%). A small percentage of lawyers report they are Contract Attorneys (2%).

Employment positions of lawyers in corporations, not-for-profits, and government	% of respondents
Counsel/Attorney	38%
Senior Counsel/Senior Attorney	33%
General Counsel or Executive Director	14%
Deputy General Counsel	13%
Contract Attorney	2%

Finally, among the relatively small number of lawyers (less than 1%) who responded to the Survey and work in the judicial system, 21% report working as a judge (n = 10), and 79% report working as an attorney (n = 38).

### Locations of employment

The Survey sample includes lawyers from across Illinois, those working in the Chicago/Cook County metropolitan area (where the majority, although certainly not all, lawyers work), as well as lawyers working in Northern, Central, and Southern Illinois.

Locations of employment	% of respondents
Chicago/Cook County	63%
Northern Illinois	22%
Central Illinois	10%
Southern Illinois	5%

### Number of days typically worked in the office each week

Almost half of all lawyers (48%) who responded to the Survey work in the office at least four days a week. Almost one quarter (23%) work in the office 2-3 days a week with the same number (23%) working remotely most of the time. The remaining number (6%) work in the office one day a week.

As shown below, there continues to be no one pattern of working in the office or from home. While many lawyers come to the office either all or the majority of weekdays, a substantial number continue to work either remotely or on a hybrid basis.

Number of days typically in office	% of respondents
4-5 days per week	48%
2-3 days per week	23%
1 day per week	6%
Remotely most of the time	23%





## Acknowledgments

This initiative would not have been possible without the Illinois Supreme Court's courageous decision to allow the Commission to undertake this initiative and publish these results. The Commission is grateful for the Court's commitment to cultivating transparent leadership and civility, inclusion, and integrity in the legal profession.

### **Justices of the Illinois Supreme Court**

**Chief Justice Mary Jane Theis**

**Justice P. Scott Neville, Jr.**

**Justice David K. Overstreet**

**Justice Lisa Holder White**

**Justice Joy V. Cunningham**

**Justice Elizabeth M. Rochford**

**Justice Mary K. O'Brien**

The Commission is especially grateful for the support and guidance of Justice Rochford, who serves as the Court's Liaison to the Commission.

The Advisory Council for this initiative brought incredible insight, experience, and passion to this initiative, and the Commission greatly appreciates the members' wisdom and service.

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Finally, the Commission thanks the lawyers and judges who participated in the Survey and focus groups. Your contributions are helping pave the way to a healthier and more inclusive profession.



# About the Illinois Supreme Court Commission on Professionalism

The Illinois Supreme Court established the Commission on Professionalism under Supreme Court Rule 799 to promote integrity, professionalism, and civility among the lawyers and judges of Illinois, to foster a commitment to the elimination of bias and divisiveness within the legal and judicial systems, and to ensure those systems provide equitable, effective, and efficient resolution of problems for the people of Illinois.

The Commission achieves this mission through professional responsibility continuing legal education (CLE), lawyer-to-lawyer mentoring, legal professionalism programming, educational resources, robust communications platforms, and more.

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