

BY ED FINKEL

# Been Bullied?

Chances are you have or know a lawyer who has, according to a report by the Illinois Supreme Court Commission on Professionalism.



**ONE OUT OF EVERY FOUR ILLINOIS LAWYERS RECOUNTS BEING BULLIED BETWEEN 2022 AND 2023**, according to a survey completed by more than 6,000 attorneys.

Results of the survey, administered by the Illinois Supreme Court Commission on Professionalism, were released in October in the form of a report, “Bullying in the Legal Profession: A Study of Illinois Lawyers’ Experiences and Recommendations for Change.” The study is believed to be one of the first large research projects in the U.S. focused on bullying in the legal profession. The report also includes findings from a smaller pool of attorneys who participated in related focus groups.

## Findings

Among survey respondents who were asked about their experiences with being bullied or bullying others between 2022 and 2023:

- 38 percent of women and 15 percent of men said they had been bullied during this time.
- 38 percent of those with a significantly impairing disability had been bullied vs. 23 percent of those who did not.
- 36 percent of Middle Eastern/North African, 35 percent of Black, 34 percent of Hispanic, 32 percent of multiracial, 28 percent of Asian American, and 23 percent of white attorneys recounted being bullied.
- 39 percent of attorneys ages 25 to 35 said they've been bullied. The percentage decreased steadily as attorneys age, but even 12 percent of lawyers ages 66 to 75 indicated being bullied.
- 29 percent of lesbian, gay, and bisexual lawyers said they have been targeted for their orientation.

Survey respondents who have been bullied recounted that bullying included physical and/or emotional harassment and negative professional consequences, with 18 percent of attorneys having left a job due to bullying, 20 percent seeing a decline in physical health, 39 percent feeling less productive, and 54 percent experiencing negative well-being like anxiety or loss of self-confidence.

Those who left a job included 28 percent of female lawyers, 28 percent of those with a disability, 25 percent of those who described themselves as LGBTQ+, and 24 percent who were Black, Hispanic, or multiracial.

As for the bullies, 33 percent were lawyers outside of the bullied attorney's organization, 31 percent were lawyers within the bullied attorney's organization in a more senior role, and 14 percent were judges.

The seven most commonly reported types of bullying were: verbal intimidation (insults, name-calling, or shouting); belittling

or excessive criticism; demeaning nonverbal behaviors; blatantly unrealistic work demands; malicious rumor spreading; taking improper credit for work accomplishments; and withholding of important work information.

The kind of bullying a respondent experienced varied based on their demographics. For example, younger lawyers more often talked about others taking credit for their work and being excluded from important meetings; women often reported shouting, insults, demeaning names (including wildly inappropriate ones), and invasion of physical space and sexual harassment.

Relatively few attorneys bullied in their own workplace (20 percent of all respondents) reported the experience to their supervisor, a higher-level attorney, or human resources manager. Reasons cited for not reporting included not wanting to be seen as weak or a "complainer" (34 percent), fear of the bully's status (27 percent), fear that the employer would not respond meaningfully (27 percent), and fear of losing work assignments—or their job entirely (16 percent).

It appears that these fears were well-founded. Of employers who were informed of a bullying situation, 52 percent did not respond meaningfully, according to those bullied. Respondents said employers committed to taking appropriate action 22 percent of the time.

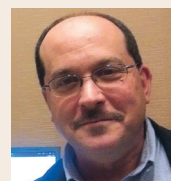
To read the full report, visit [law.isba.org/48oTGtC](http://law.isba.org/48oTGtC). For more on the survey's administration, see the sidebar to this article, "Survey Presents Challenges and Opportunities."

## First impressions

ISBA President Sonni Choi Williams, attorney for the City of Lockport, participated in the advisory committee for the report and in a focus group of Asian American attorneys. "It's a spectacular report. It's eye-opening," Williams says. "It appears to be the first of its scope in the nation. I'm glad this presents statistical background and the evidence to say to employers and bar associations that

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—ISBA President Sonni Choi Williams



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THE SEVEN MOST COMMONLY REPORTED TYPES OF BULLYING, ACCORDING TO THE REPORT, WERE: VERBAL INTIMIDATION (INSULTS, NAME-CALLING, OR SHOUTING); BELITTLING OR EXCESSIVE CRITICISM; DEMEANING NONVERBAL BEHAVIORS; BLATANTLY UNREALISTIC WORK DEMANDS; MALICIOUS RUMOR SPREADING; TAKING IMPROPER CREDIT FOR WORK ACCOMPLISHMENTS; AND WITHHOLDING OF IMPORTANT WORK INFORMATION.

something has to change.”

ISBA Immediate Past President Shawn Kasserman of Chicago-based Tomasik, Kotin, Kasserman, LLC, also was on the advisory committee and helped organize one of the focus groups. “Part of the problem is that many of us don’t slow down enough to take a look at what’s right there in front of us,” he says. “I’ve been doing this for 35 years, and I’ve known some bullies. And I am a white male, not subject to the same level as most folks are. The report brings to light formally what we’ve all thought and known, informally. We can’t ignore it now. It’s on paper. It’s been formally observed and acknowledged. And steps need to be taken.”

### Unpacking the results

Erika Harold, attorney and executive director of the commission, said the prevalence of bullying is concerning, particularly for certain demographic groups and the percentages of attorneys who left a job due to bullying.

“That has striking implications for retention, promotion, and equity issues within the profession,” Harold says.

“When leaders are looking at turnover

### Key Recommendations

The Illinois Supreme Court Commission on Professionalism’s report on the results of its bullying survey recommends five ways to combat bullying.

- 1) Law firms and other legal workplaces should create and enforce anti-bullying policies; define bullying and how to report, investigate, and document the results; prohibit the alleged bully from retaliating; and outline potential consequences. A specific person should be assigned to follow up and ensure that no retaliation or continued bullying has taken place.
- 2) Employees should be trained on workplace policies and procedures related to bullying and how best to respond to it—as a victim or as a bystander. Law schools should offer bully-prevention education and training to students.
- 3) Courts should adopt and enforce standards to prevent bullying, starting with a standing order about bullying and incivility that outlines unacceptable behaviors and consequences. The Illinois Attorney Registration and Disciplinary Commission should continue to review complaints and make recommendations on remediation or disciplinary actions when behavior violates the Illinois Rules of Professional Conduct.
- 4) Bar associations should educate members about the frequency and deleterious effects of bullying within the profession using resources such as toolkits, model policies, continuing legal education programs, print and online publications, and lawyer-to-lawyer mentoring programs.
- 5) Victims should defend their well-being, rights, and careers. Challenging the bully, walking away, ignoring the behavior, and/or reporting it are all valid responses. Victims should seek support and guidance from friends, mentors, and sponsors inside and beyond their organizations.

“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,” the report concludes.

### Surveys Present Challenges and Opportunities

Chicago-based The Red Bee Group LLC conducted the survey and drafted the final report on bullying in the Illinois legal profession on behalf of the Illinois Supreme Court Commission on Professionalism. More than 6,000 attorneys responded to the survey.

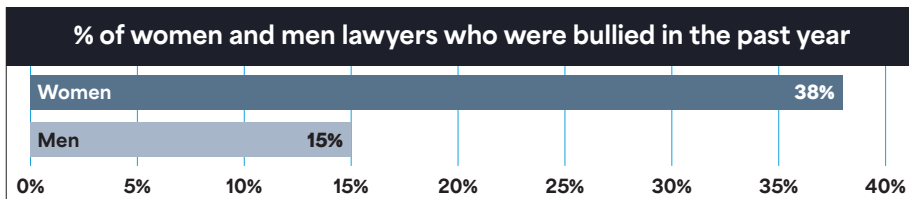
The number of respondents are representative based on population statistics, and the survey design deliberately limited reporting to the past year to ensure that experiences were current, detailed, and strongly remembered, says Red Bee Group cofounder Stephanie Scharf, who also is partner at Scharf, Banks, Marmor LLC. “People don’t remember things, or they misremember things,” she says. “The further away from an incident, the harder it is to have confidence in memories.”

Open-ended questions were a huge plus of the survey design, Scharf says. “I was stunned. We got thousands and thousands of comments from participants. That shows how strongly people felt about bullying, how it affected them, what they’ve seen, what can be done about it, and what is not being done that should be.”

Scharf says the screening questions gave participants confidence Red Bee would be careful with the information, and the survey firm emphasized several times that confidentiality was an important part of the process.

Surveys and focus groups that delve into unpleasant experiences can be cathartic for participants, says Red Bee Group principal Roberta Liebenberg, who is also a senior partner at Philadelphia-based Fine, Kaplan and Black. “People feel this is happening and it sort of validates that they’re not crazy,” she says. “This is conduct that happens. It is conduct that is wrong. They find comfort in hearing the other stories and hearing what other people have gone through or are going through.”

“In the focus groups, one person starts talking, and that triggers another person,” adds Scharf. “The idea of talking together and hearing others makes people remember things they have forgotten.”



Source: Tables in this article are from the Illinois Supreme Court Commission on Professionalism’s report, “Bullying in the Legal Profession: A Study of Illinois Lawyers’ Experiences and Recommendations for Change.”

within their law firms, this shows why it’s so important to have anti-bullying policies and training, and an inclusive environment.”

Recalling her days as a practicing attorney, Harold says she had many experiences that mirror the data and anecdotes in the report. “I have been called names, shouted at, asked to do things I thought were unethical, faced sexual harassment, and found myself not being included in certain opportunities on account of my race and gender,” she says.

Harold’s decision to become an attorney and an anti-bullying advocate stems in part from being bullied so severely she switched high schools. She also made youth violence and bullying her platform as Miss America in 2003. “It was a powerful platform to emphasize that [young people] are not defined by the worst thing people call them, and to empower bystanders to stand up,” she says.

First District Appellate Court Justice Debra Walker, an advisory council member who gave input on the survey and the final report and helped select judges for a focus group, found the percentages within different groups startlingly high, especially given the survey only went back one year.

“When you read some of the anecdotal information, you cannot believe that in our occupation, which we call a profession, that people would be this cruel to other people, both in the workplace and in the courtroom,” she says. “What this report will do is raise awareness and cause people to stop and think before reacting to something in such an adverse way that they would want to bully an opponent or a younger colleague. I hope that judges will

take this to heart and think about ways in which they can set expectations.”

When Justice Walker became an attorney, most attorneys and judges were men, she recalls. While she had excellent relationships and rapport with most colleagues, including opposing counsel, she remembers two bullies in particular. “I would warn them, ‘If you can’t clean up your mouth, I’m going to have to hang up on you.’” Sometimes, she did.

“Attorneys of diverse backgrounds are taking the brunt of the issues with bullying, as are younger attorneys,” says Cook County Circuit Court Judge Kenya Jenkins-Wright, who served on the advisory council. “If they are uncomfortable in the workplace, if they are uncomfortable going to the courtroom dealing with other attorneys who are bullying, that impacts their ability to develop and flourish.” Noting the modest numbers of equity partners from diverse populations, she adds, “This is another factor that could be limiting them.”

If there is a positive side to the results, Judge Jenkins-Wright is encouraged that younger attorneys appear to be more likely than others to take a stand and report that they have been bullied. “I’m glad that we have a new generation of attorneys who have a better understanding of how bullying can negatively affect their careers,” she says. “The only way we can communicate that bullying is a significant issue is to report it and let us know their experiences, so we can highlight it and try to prevent it.”

As a younger lawyer, “I did face bullying: People speaking loudly, people speaking over me, and attempting to not

**SURVEY RESPONDENTS WHO HAVE BEEN BULLIED INDICATED THAT BULLYING INCLUDED PHYSICAL AND/OR EMOTIONAL HARASSMENT AND NEGATIVE PROFESSIONAL CONSEQUENCES, WITH 18 PERCENT OF ATTORNEYS HAVING LEFT A JOB DUE TO BULLYING, 20 PERCENT SEEING A DECLINE IN PHYSICAL HEALTH, 39 PERCENT FEELING LESS PRODUCTIVE, AND 54 PERCENT EXPERIENCING NEGATIVE IMPACTS ON EMOTIONAL WELL-BEING LIKE ANXIETY OR LOSS OF SELF-CONFIDENCE.**

allow me to get my points across to the court,” Judge Jenkins-Wright adds. In part, this might have occurred because she looked even younger than she was. “It’s a gift and a curse to look young,” she says. “Luckily for me, I was more experienced—they misjudged my age.” In her courtroom, Judge Jenkins-Wright will

## Type of bullying

Ranked by the most commonly experienced.

- 1) Verbal intimidation, such as disrespectful speech, insults, name-calling, shouting
- 2) Harsh, belittling, or excessive criticism
- 3) Demeaning nonverbal behaviors, such as eye-rolling, finger-pointing, and staring
- 4) Routinely being subject to unrealistic deadlines or other unreasonable work demands
- 5) Behind-the-back false accusations, malicious rumors
- 6) Someone improperly taking credit for one’s work
- 7) Not receiving work-related information or not being invited to important work meetings

remind a bullying attorney to address the court and not their opponent. “And I say, ‘Let’s have a better tone than you did with the opposing party.’”

Advisory council member Brandy Johnson, assistant professor at Southern Illinois University Simmons Law School, helped recruit focus group members. While she was not surprised by the results, she was encouraged that 12 percent of respondents were self-aware enough to acknowledge they’ve bullied others. “I was pleasantly surprised that they saw the error of their ways,” she says.

As a person who uses a wheelchair, Johnson says some opposing attorneys have literally talked over her to the judge, “excluding me, even though I am one of the parties standing before the bench. There are judges who don’t want to get involved. They tell you to work it out and

bring what’s relevant to the court. In that way, the behavior continues.”

### Putting bullies on notice

Williams says she intends to spend the rest of her year as ISBA president implementing the report’s recommendations (see the sidebars, “Key Recommendations,” and “The ISBA’s Efforts to Combat Bullying.”)

“It should not be accepted in our profession that this is how you end up being better lawyers,” Williams says. “It’s a drain on the resources of employers to have talented young lawyers out there leave either that place or the profession because of bullying.”

Williams recalls a particularly heinous experience when she rejected the demands of a senior attorney who wanted an “easy way out” for his client.

“I stood my ground and said ‘no,’” she says, and he responded with a vulgar reference to a female body part. “We had always been cordial. For that to turn on a dime because he didn’t get his way—it was traumatizing to endure in an office setting,” she says. “It didn’t matter that I was working as assistant city attorney, went to law school, and did all that stuff. When someone says that—uses your gender in the most offensive way—it was very shocking.”

Kasserman says the report provides some encouragement for bullied attorneys. “People bully and act that way out of ignorance, fear, or entitlement,” he says. “The bullies I’ve known, they’re generally unhappy people who are manifesting that unhappiness through bullying. I think this report can help those folks, too. It’ll make the world a

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
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%

better place when the victims and all they have to endure are acknowledged, and the bullies and what they're doing or not doing is pointed out, and they have to change their behavior."

On occasion, Kasserman has seen judges bully lawyers, which makes him

fearful, frustrated, and disappointed.

"I know [those feelings are] magnified hundreds of times for the person who's being bullied," he says. "You can't necessarily stand up in a courtroom and say, 'Don't do that.' But we all have the obligation to stand up and say, 'Stop

it' when we can, even when it's really hard. The fact that someone may be able to tolerate bullying in the workplace doesn't make it any more acceptable or appropriate. It's just as wrong. It should never be tolerated." **EB**

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