

A woman with dark hair pulled back, wearing a blue and white patterned tunic under a full suit of dark grey plate armor. She is looking slightly upwards and to the right. The background is dark blue with white lightning bolts. The title 'The JOB Is KILLING Them' is overlaid in large white text.

The **JOB** Is KILLING Them

Family lawyers are experiencing a higher rate of threats and violence than other lawyers

By Lorelei Laird

After lawyer Sara Quirt Sann was murdered at work, her husband evoked Ephesians 6:10-20, a Bible passage about the armor of God, to describe her.

"She had to put her armor on every day and fight for those who needed representation," Scott Sann wrote on Facebook. "Make no doubt in your mind that she was a warrior."

Sann, 43, was a solo lawyer, and she did a lot of guardian ad litem and family law work in Wausau, Wisconsin. In early 2017, that included representing Naly Vang in her divorce from Nengmy Vang. It wasn't going smoothly; Nengmy Vang was pressuring his wife to speed up the process by using a traditional Hmong divorce, in which their clan elders split their property and custody of their seven children. But Naly thought the American court process would better protect her.

It all came to a head on March 22, 2017, when Nengmy stormed into the bank where Naly worked and demanded that she sign divorce papers that didn't exist. Two of Naly's colleagues hustled her out the back door—and Nengmy shot them. He then drove to the law firm Tlusty, Kennedy & Dirks, where Sann rented an office, and forced an employee at gunpoint to show him where Sann worked. That employee told the police she then heard a scream, two gunshots and the sound of someone running down the stairs. Nengmy would go on to kill a police officer before officers fatally shot him.

The murders shook up Wausau, a central Wisconsin city of about 40,000 that just a year earlier the FBI had called one of the safest metro areas in the Midwest.

"It was just such a shock," says Pam VanOoyen, a friend of Sann's and a judicial coordinator for a Marathon County judge. "We're not as big as Green Bay or Milwaukee or Madison, even, for that matter. And so we're all really connected."

In response, citizens formed Wausau Metro Strong to build a safer community. Among its projects was Sara's Law, a measure that makes the penalties for battery or threats to a family lawyer a low-level felony, as it would be for battering a police officer or a judge. In most other circumstances, battery must cause great bodily harm to carry the same penalties. The bill passed the state legislature easily; Wisconsin Gov. Scott Walker signed it April 11 in a courtroom named for Sann.

Attorney Jessica Tlusty—who runs the firm that rented Sann her office—helped lead the Sara's Law effort. She says the law grew out of Scott Sann's wish that his wife had better protection. Tlusty practices family law herself, and she says threats and violence are too common.

'IT'S THE RISK YOU TAKE'

A series of surveys on violence against lawyers shows that family lawyers face disproportionate amounts of threats and violence compared to other lawyers. Almost all lawyers in the 27 states surveyed said they'd received some kind of threat or experienced violence. But the rate for family lawyers was higher.

Family lawyers were more likely to have been threatened within the past year and were more likely than lawyers in general to say they were assaulted, especially by someone who had threatened them before. Less than 10 percent of lawyers in both categories said they'd been assaulted.

Lawyers have reported receiving threats about their children being raped, having their car tires slashed, and seeing clients shot to death in front of them.

"We are often looked at as the cause of many problems in custody cases because the parties want someone to blame," Tlusty says. "So threats tend to come toward the attorneys."

The surveys come from Salt Lake City attorney Steve Kelson, who has a full-time business litigation practice at Christiansen & Jensen. One of his law school professors had said the issue was understudied, and Kelson discovered he was right—no one was tracking it in the United States. He took up the challenge in 2006, surveying Utah State Bar members.

He has since surveyed just fewer than 12,000 lawyers in 27 states, most recently in New Hampshire in 2017. Lawyers generally are recruited by state bar associations to participate voluntarily and anonymously. Kelson provided state-by-state data to the *ABA Journal*,

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which used it to compile national numbers.

Those numbers reveal that 88.7 percent of all lawyers responding to the surveys had received some kind of threat or experienced violence. The number of all lawyers who said they'd actually been assaulted was much lower, at 8.6 percent—but 42 percent of lawyers also said they'd experienced an in-person confrontation that fell short of assault, and 6.6 percent said they'd had property damaged.

When responses are broken out by the lawyer's practice area, family lawyers consistently have higher rates of threats and violence. Kelson says criminal lawyers also reported an above-average rate of threats and violence, as did lawyers choosing "general practice," which could include many practice areas. This might not come as a surprise for lawyers specializing in criminal cases, whose clients or opposing parties sometimes have a

history of violence.

But family lawyers' work is civil—and 92.8 percent, more than lawyers generally, had experienced some kind of threat or violence. Family lawyers also were more likely to say they'd experienced in-person confrontations, property damage or assault. When they were assaulted, the person responsible was more likely to be someone who already had threatened them (8.5 percent vs. 6.4 percent for all lawyers). About a quarter of family lawyers said they'd been threatened within the past year; only 18.4 percent of all lawyers said that.

Kelson's surveys suggest most of those threats are coming from opposing parties. While lawyers in general were more likely to say they were threatened or attacked by a client, only 38 percent said they were attacked or threatened by an opposing party. For family lawyers, that rate was a much higher 54.4 percent. It's a reality for many of the family lawyers who answered Kelson's surveys.

"As a family law attorney, there have been many times when I have been confronted in person ... and threatened," a Nevada lawyer wrote in response to Kelson's 2012 survey. "It seems to come with the type of

law I practice."

"It's the risk you take when you're involved in very high-conflict, highly emotional cases," wrote an Alaska lawyer in 2015 who'd moved away from guardian ad litem work.

The threat isn't limited to attorneys, either. In Arizona in June, Dwight Jones killed two paralegals, Veleria Sharp and Laura Anderson, who worked for the law firm that represented his ex-wife in their divorce. Authorities believe the ex-wife's lawyer was the intended target. Jones also killed psychiatrist Stephen Pitt, who had evaluated Jones at the request of the divorce court, as well as three other people, one of whom might have been mistaken for a counselor who had evaluated Jones' child by court order. Jones ultimately fatally shot himself in a hotel room.

While Jones' motives remain unknown, acrimony in family law cases can be reason enough for caution, especially when children are involved. California attorney Stephen Zollman's practice includes representing parents whose children might be taken away from them. Even as a former public defender, he thinks family court carries more risk than criminal court.

"You can take a lot from people, but when you start talking about taking their children ... there is no

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greater loss and greater trigger," says Zollman, a solo in Guerneville in Sonoma County.

The threat is also elevated for lawyers who represent victims of domestic violence. There, the opposing parties have a history of violence—but they're less likely than criminal defendants to be locked up. Vivian Huelgo, chief counsel for the ABA Commission on Domestic & Sexual Violence, says they're also used to having power and control over victims. They might see lawyers as a threat to that control.

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VEXATIOUS LITIGANTS

Despite getting threats, practicing family lawyers say actual violence isn't frequent—even for people who regularly represent domestic violence victims, such as Allen Bailey of Anchorage, Alaska.

"It's not a weekly or monthly or annual occurrence," says Bailey, a solo and the ABA Section of Family Law's liaison to the Commission on Domestic & Sexual Violence.

But it does happen. Bailey keeps a gun in his desk because of a former client's ex-husband who he suspects



stalked him. The man had stalked the former client, filed a baseless bar complaint against Bailey, and tried to frame him for a financial crime. Bailey has never used the gun, but he has called the police on a few clients' exes who refused to leave his office.

Comments on Kelson's surveys suggest some of Bailey's experiences are common. Family lawyers frequently said angry parties left negative and often-false reviews on lawyer rating websites or social media and sometimes filed frivolous ethics complaints. Confrontations in court or at the office also were widely cited, as were bricks, rocks and bullets through windows.

Survey respondents had some hair-raising stories. An Iowa lawyer wrote in 2013 about receiving a call at home from someone threatening to rape the lawyer's preschool-age daughter. In Kansas,

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a lawyer wrote in 2013 about helping a client divide marital property at the home of the client's estranged husband when he pulled out a gun, threatened the lawyer, killed his wife and then killed himself.

Although many of the survey comments cite male aggressors, there are plenty of stories about women. In the 1990s, a female former client of Bailey's killed Jim Wolf, an Anchorage municipal prosecutor as well as a friend and former colleague of Bailey's. Madeline Marzano-Lesnevich, president of the American Academy of Matrimonial Lawyers, says a lawyer at her firm had all four tires slashed by a woman the firm had dropped as a client.

During one divorce case, Marzano-Lesnevich recalls being approached by an opposing counsel in such a threatening way that courthouse personnel intervened. "He was a criminal law attorney who was acting as an attorney for his friend in this arena," says the founding partner at the Hackensack, New Jersey, firm of Lesnevich, Marzano-Lesnevich, Trigg, O'Cathain & O'Cathain. "I guess he just let his closeness to his friend get the better of him when he was not prevailing."

ASSESSING RISK

Despite stories such as these, relatively few lawyers seem to be worried about safety. Marzano-Lesnevich says she hasn't heard it discussed much, even in family law circles. Kelson's surveys show a majority of lawyers in general don't change how they practice law in response to threats, although family lawyers are more likely to.

"It seems as though upfront, many people said, 'Well,

it's part of the practice—you need to expect it,'” Kelson says. “There's also kind of an impression ... 'Yeah, there's a lot of threats, but nothing will happen about it.'”

That's a mistake, says Dr. Jimmy Choi of My Occupational Defense, a San Francisco company that provides self-defense training for the workplace. Choi, who sees his share of threats through his work as an emergency room physician, says the first step is to realize a threat can be dangerous. Human beings tend to think everything will stay normal, he says—which can lead people to dismiss the danger.

The ABA domestic violence commission's standards of practice say safety planning should be used in every domestic violence case. This is mainly for the client's safety, but it can be useful if there's a threat to the lawyer.

One tool the commission recommends is a questionnaire that assesses danger, created by Johns Hopkins University nursing professor Jacqueline Campbell.

Huelgo says lawyers should look for recent changes or escalation

of the violence—more serious injuries, more frequent attacks, attempted strangulation, new abuse of children and pets. Stalking, threats to the victim and threats of suicide also can be red flags. Violence often escalates when the abused partner leaves, she says, because abusers feel their control slipping.

Stephanie Tabashneck, a psychologist who routinely handles child custody evaluations in Boston, performs formal risk assessment in some of her cases. She looks at any past history of violence and the nature of that violence, any mistreatment as a child, the person's attitudes and beliefs, any substance abuse, and recent changes in the person's support system. Research shows that being male contributes to risk, she says, as does access to guns.

The details matter. If a threat includes a specific way to do the harm, such as a gun, and a specific time, such as that evening, “that's a really high risk of violence, and I'd be deeply concerned,” says Tabashneck, who recently graduated from the Northeastern University School of Law.

Huelgo also advises lawyers to determine whether information about them is available to strangers. Lawyers who own houses, for example, might be easy to find through local land records and might consider putting their property into a trust or a business with a different name.

The internet is another place to tighten things up. Ian Harris, technology safety legal manager at the National Network to End Domestic Violence, says angry parties sometimes go on “electronic sprees,” in which they trash the lawyer on every platform they can. They also could

hack into the lawyer's business records, which could lead to unauthorized access to client information.

The best defense is prevention, says Harris, a former family lawyer from New York City who's now based in Washington, D.C. He suggests lawyers start each case by talking to clients about what platforms their exes use, how they use them and how frequently. This is focused on the client's safety but also might help identify ways technology can be used against the lawyer.

"If somebody hacks into your account or starts a process of trying to take you down online, it's hard if you haven't prepared in advance for that," he says. "Learning how technology is misused against the client is probably the best opportunity to start thinking about [how] somebody might use it against you."

USE YOUR WORDS

Kelson's surveys show threats are most common at the office. For that reason, Huelgo suggests lawyers think about what opportunities they have to make it more secure. Bailey of the ABA Family Law Section says he locks the door when he's in his office alone and keeps an eye out when he's concerned about someone.

Zollman, the solo in Sonoma County, suggests lawyers

not invite clients they have concerns about into the office at all—or have someone else present if they do. If that's not possible, he says, meet them at the courthouse, where they'll be screened by security and will be near law enforcement officers.

But outside the courthouse is a different matter, particularly because court dates make it easy to find out when targeted parties will be in the area. To address that concern, Huelgo of the ABA Commission on Domestic & Sexual Violence suggests talking to court security personnel about alternative entrances. In a higher-risk case, she says, litigants sometimes ask for an escort. Zollman, who's taller than 6 feet, sometimes provides his help to colleagues if he's worried about their safety. Choi of My Occupational Defense says you should never be paying more attention to your smartphone than your surroundings in high-risk situations.

Huelgo says other courthouse personnel can be helpful, too. "A very common practice is to ask the court to detain the batterer for some amount of time," she says. "We've had clerks that detain court papers in order to give the victim and the attorney an opportunity to leave."

For lawyers who can't avoid a hostile confrontation, psychologist Tabashneck suggests that being pleasant

and polite, while it might be difficult, can help. Zollman says he listens to upset parents sympathetically.

"I just sort of say, 'Wow, that's a lot that you've just explained to me. And you rightfully are entitled to all of these emotions,'" he says. "But ... I would just encourage you to take deep breaths, as many times as you need to, to just kind of lower your own stress. Because you want to do the best job you can to explain your position."

Choi teaches his students to try de-escalating situations verbally, using the kind of script often used by doctors and law enforcement. Those scripts emphasize listening, asking about the other person's concerns, giving sympathy or apologies where appropriate, and providing options to solve the problem.

"People will resort to violence if they realize they don't have another option," he says. "So a lot of the scripting that we teach people is to present the aggressor with other options."

Choi recommends lawyers who want to handle physical confrontations invest substantial time in

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training, such as martial arts, which he offers. Under stress, he says, people are more likely to remember the training if it's been drilled into them. For those who'd rather not, he suggests creating or finding escape routes. On the street, this could mean ducking into an open business. In the office, he says, there should be more than one way to leave every room.

At Thlusty's office in Wausau, her firm has responded to the murders with substantial new security protocols, such as only taking clients by appointment and buzzing them in rather than allowing them to walk in. VanOoyen, the judicial coordinator in Marathon County, says a lot of lawyers in the area have taken similar steps—especially those who practice family law.

VanOoyen says the courthouse where she works also has drastically tightened security. Before March 2017, the courthouse had no permanent metal detector—just a portable one used for specific high-profile cases. Now there's permanent security at the front, and the building's other entrance is closed. Not everybody likes it, she says, but she feels much safer.

"We still get people that come in, and they're angry and upset and what have you," VanOoyen says. "However, at least now I don't have to worry about, 'Gee, do they have a gun in their purse?'" ■

