

The Harassment of Forensic Psychiatrists Outside of Court

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Violence by psychiatric patients has received increasing attention; there have been reports of attacks by inpatients,¹⁻⁴ emergency room visitors,⁵ and surveys of assaults by all types of patients.⁶⁻¹³ Despite their association with patients who might be expected to be more dangerous than the general psychiatric population, there have been few attempts to study the experiences of forensic psychiatrists. There are a few studies of assaults in maximum security hospitals;¹⁴⁻¹⁷ in the only one of these to differentiate types of staff assaulted,¹⁵ no psychiatrists were assaulted. Forensic psychiatrists have come to expect verbal harassment in court by cross-examining attorneys, but there has been little written about the verbal or physical harassment, outside of court, of psychiatrists as a result of their participation as expert witnesses in civil or criminal proceedings. After a personal experience in which I was subject to threats of physical harm by the family of the victim in a murder trial, I decided to examine the extent of this problem.

Methods

Questionnaires asking about personal experiences with either verbal harassment or physical threats or actions, differentiated among these three categories, in connection with their involvement as expert witnesses in forensic cases were sent to members of the American Academy of Psychiatry and Law (AAPL), the largest American organization of forensic psychiatrists. Stamped self-addressed return envelopes were included with the questionnaires. No names of respondents were requested, and no attempt was made to follow up on those who did not return questionnaires. The questionnaires were intentionally brief (two pages); although some data were thereby sacrificed, it was decided that longer questionnaires would discourage responses.

Descriptive information requested on the questionnaires included number of years in forensic practice, proportion of civil versus criminal forensic practice, and frequency of *viva voce* testimony. Respondents were asked if they had ever been harassed, threatened, or attacked by anyone as a result

This article is based on a presentation made at the 15th Annual Meeting of the American Academy of Psychiatry and the Law, The Bahamas, October 1984.

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of participation in a forensic case; if so, how many times, by whom, and the nature of the threat or act. They were asked if they had modified their practices as a result of such problems, and what (if any) precautions they had taken as a result.

Results

Four hundred eight questionnaires were returned of the 850 sent (48 percent). One hundred seventy-one (42 percent) of the respondents had been harassed in some way: 68 (17 percent) had been threatened with physical harm, 55 (13 percent) had been harassed by threats of nonviolent injury, and 48 (12 percent) had been both threatened with harm *and* harassed. Of these, 14 (3 percent) had actually been attacked. In some of the reports, the source or circumstances of the assault were not reported. Sixty-eight respondents indicated that they had been harassed only once, 71 said that they had been harassed two to five times, and 21 said that they had been harassed more than five times.

There were no statistically significant descriptive differences between those who were harassed nonviolently, those who were assaulted, and those who were not harassed at all (χ^2 , $p > 0.05$ for all comparisons). Nearly 60 percent of the respondents in both categories had more than 10 years of experience in forensic practice, nearly two-thirds in both categories spent at least 60 percent of their forensic time in civil practice as opposed to criminal, and there appeared to be a bimodal distribution for average frequency of testimony, with peaks at once a year (approximately 30 percent) and more than 20 times per year (approximately 30 percent) for both categories, although the artificial truncation of the data sets makes accurate determination of the actual distribution impossible (Table 1).

In light of the preponderance of civil practice, it was interesting that 72 of the 117 assaults (62 percent) occurred in criminal cases, with the majority (53 percent or 45 percent of reported assaults) occurring in connection with insanity defenses. Twelve threats (10 percent) occurred in workers' compensation cases, 11 (9 percent) in child custody, and 10 (9 percent) in involuntary civil commitment, with the rest (10 percent) being spread out among a variety of types of cases. The 14 cases of actual harm were evenly divided between civil and criminal (Table 2).

Nonviolent harassment came predominantly from defendants or their attorneys; victims, plaintiffs, or their attorneys accounted for somewhat fewer cases. The press, attorneys, or judges not directly associated with the forensic case in question and other clinicians were involved in the majority of the remaining cases. Assaults (threats of physical harm) were even more likely to come from defendants or their attorneys; victims or plaintiffs and

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Table 1. Characteristics of Respondents

	Harassed	Actually Harmed	Not Harassed
Years in forensic practice			
<1	1	0	2
1-2	1	0	7
3-5	16	1	40
6-9	53	4	57
10+	97	9	128
Total	168	14	234
Percentage of criminal practice			
10-20	55	4	98
20-40	21	3	33
40-60	27	1	35
60-80	35	2	35
80-100	31	4	34
Total	169	14	235
Average times testify/year			
0	8	1	12
1-5	45	4	88
6-10	28	2	57
11-20	37	2	34
>20	52	5	46
Total	170	14	237

Table 2. Type of Case

Type of Case	Respondents Assaulted (%)	Respondents Harmed (%)
Criminal responsibility or competency to trial	53 (36)	5 (37)
Other criminal cases	13 (9)	2 (14)
Release evaluations	6 (4)	0
Workers' compensation	12 (8)	1 (7)
Custody, divorce, welfare	12 (8)	0
Civil commitment	10 (6)	2 (14)
Personal injury, disability	7 (5)	1 (7)
Other civil cases	4 (3)	3 (21)
Unknown	31 (21)	0
Total	148	14

their attorneys also assaulted in a number of cases. Attorneys not directly involved in the case in question assaulted in a few cases and the remaining threats of physical harm were anonymous. In the 14 cases of actual harm, defendants were responsible in five, a plaintiff's attorney in one, and another attorney in another; the other seven respondents did not identify the sources of harm (Table 3).

Death threats accounted for 72 cases and threats of lesser physical harm for 52 cases; there were 3 threats of arson and 2 of property damage. There were 3 threats of lawsuits and 13 threats were not characterized (Table 4).

Precautions in their forensic work had been taken by 10 of the 237 respondents who had not been harassed (4 percent), as compared with 81

of the 171 who had been harassed in some way (47 percent). Twelve of the 14 who had been actually attacked (86 percent) took some precautions as a result of the attack. Some respondents had taken more than one precaution (Table 5).

Twenty-seven of the 171 respondents (16 percent) who had been harassed reported that they refused certain cases, as compared with 16 of the 237 who had not been harassed (7 percent). Leading the list of undesirable situations were homicidal patients (eight cases) and sensational cases (eight cases), closely followed by patients with ties to organized crime (five cases)

Table 3. Perpetrators

	Harassed (%)	Assaulted (%)	Harmed (%)
Defendants	28 (23)*	73 (49)	5 (36)
Defendants' attorneys	22 (18)	21 (14)	0
Plaintiffs/victims	10 (8)	16 (11)	0
Plaintiffs' attorneys	17 (14)	12 (8)	1 (7)
Media	15 (12)	19 (13)	0
Other attorneys/judges	12 (10)	5 (3)	0
Other clinicians	6 (5)	0	1 (7)
Other	4 (3)	0	0
Unknown	9 (7)	2 (1)	7 (50)
Total	123	148	14

* Numbers in parentheses total.

Table 4. Type of Threat

	Death	Battery	Letters and Calls	Arson	Property Damage	Lawsuits
Defendant	41	23	2	2	0	1
Defendants' attorneys	8	8	2	1	1	0
Plaintiff/victim	6	7	2	0	1	1
Plaintiffs' attorneys	6	3	3	0	0	0
Attorneys/judges	9	7	4	0	0	1
Other	2	4	0	0	0	0
Total	72	52	13	3	2	3

Table 5. Precautions Taken

Type of Precaution	Respondents Harassed (%)	Respondents not Harassed (%)
Unlisted telephone	17 (10)	4 (1.7)
Unlisted address	16 (9)	5 (2.1)
Fortified home or office	19 (11)	2 (0.8)
Notified authorities	20 (12)	0
Changed practice type	14 (8)	3 (1.3)
Purchased firearm	10 (6)	0
Hired attorney	8 (5)	0
Other precautions	5 (3)	0
Category totals	171	237

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and the cases in which the reported harassment had been made (surprisingly, only 4 of the 171 respondents, 2 percent, said that they refused to continue in the cases in which they had been harassed). Other factors mentioned included aversions to malpractice (two cases), worker's compensation (one case), or school teachers (one case); a prior relationship with one of the parties (one case); and press manipulation by police (one case). Two respondents quit forensic work, one changed to a salaried position, and one refused further criminal cases. Eight respondents were less explicit, but stated that they had refused forensic cases.

Discussion

While a 48 percent questionnaire return rate is usually considered fairly representative of a population to be surveyed, it is not possible to assess the degree to which the respondents accurately reflect the experiences of all forensic psychiatrists. And while AAPL is arguably representative of all forensic psychiatrists in the United States, there are many psychiatrists, who are not AAPL members, who indicate that some of their practice is forensic. It is certainly possible that proportionately more psychiatrists who had been harassed took the time to complete the survey than are represented in the entire population. However, the same problem exists with many of the previous surveys of attacks on psychiatrists: response rates included 39,⁷ 48,¹¹ 55,¹⁰ and 60 percent.¹³ In addition, Tardiff⁷ found in telephone followups to all those who had not responded to the mail survey that there were no significant differences between those who had and had not responded to the original questionnaire.

One difficulty in placing these results in context is that most previous studies did not adequately distinguish between harassment, assault, and battery.¹⁵ Reported frequencies for "assaults" on psychiatrists during their careers have varied from 20¹³ to 74 percent,¹⁰ with most reports in the 40 to 50 percent range.^{9,11,12} I have used the term "harassment" generally to indicate threats (both of physical and nonphysical harm) rather than actual attacks and assault to indicate threats of physical harm. This study revealed that 42 percent of responding psychiatrists had been harassed in some way in connection with their forensic practices; 29 percent of the sample had been assaulted while 13 percent of the sample had been threatened with nonviolent injury (such as a lawsuit). Only 3 percent had actually been physically attacked, and there were no serious injuries reported from these attacks.

In contrast to previous studies, the majority of these assaults did not come from patients. The survey did not adequately distinguish whether or not the defendants or the victims/plaintiffs who were responsible for assaults were the ones evaluated by the respondents; but at least 53 percent of the

assaults came from attorneys, relatives, or others who were clearly not the ones being evaluated. It is quite remarkable that judicial personnel (attorneys and judges) were responsible for 51 of 121 (43 percent) of the total harassments reported, 38 of 148 (19 percent) threats of actual harm, and 1 of the 7 (14 percent) of actual physical attacks.

Our data do not allow us to examine the hypothesis that many attacks on therapists are at least in part precipitated by actions of the therapists themselves.^{9,13}

Unlike the data from Whitman *et al.*,¹⁰ this study revealed no differences in likelihood of having been assaulted based on the number of years of practice; our questions did not permit us to address the findings of Madden *et al.*⁹ and Tardiff⁷ that most assaults occur early in psychiatrists' careers.

Lion⁶ has made the point that clinicians tend to deny the existence of violence in their practices. He has suggested that any questionnaire survey (including this one) of violent encounters will suffer from underreporting because of the unwillingness of clinicians to deal with their anxiety and anger over such threats.¹⁸ Although this may be true of threats from patients in psychotherapy, it would seem to be less likely in forensic cases, since no therapeutic relationship usually exists and there should be fewer problems in betraying patients' confidences or in interfering with therapeutic alliances.

Forensic psychiatrists, however, are almost inevitably involved in adversarial situations and the patients they evaluate, as well as those associated with them, are more likely to be dangerous. The fact that few of those threatened have made any significant changes in their practices (even in the cases in which they were threatened) may be evidence of a denial comparable to that seen in nonforensic clinicians. On the other hand, it is quite clear that those who were threatened were eleven times more likely to take some sort of precautions than those who were not; so that it appears that forensic psychiatrists use somewhat less denial than described by Lion⁶ for psychotherapists.

Forensic psychiatrists also enter their field with more anticipations of conflict with their evaluatees and other interested parties than do general psychiatrists. Forensic practice is clearly less client-centered than is general psychotherapeutic practice¹⁹ and is therefore less burdened with expectations of alliances with patients. Forensic psychiatrists might therefore be expected to be less disturbed by threats, and also more comfortable with taking necessary precautions for self-protection, than are general psychiatrists. The significantly lower incidence of actual physical harm (3 percent) seen in this study, as compared with previous reports from general psychiatric practice, might be partially attributed to this awareness of potential danger; and partially to the fact that forensic psychiatrists have considerably less personal contact with their evaluatees (and generally in more secure

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settings, such as jails, prisons, and forensic hospitals, in which psychiatrists are usually protected by correctional personnel if any personal danger is anticipated) than do general psychiatrists, especially those who work in inpatient settings.

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